

By: Monson and Gumm of the
Senate

and

Nations of the House

[poor persons and public health and safety - Oklahoma
Health Care Authority Board - format of certification -
analysis of state health care programs -
effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1010.4A of Title 56, unless
there is created a duplication in numbering, reads as follows:

A. 1. For any rule promulgated by the Oklahoma Health Care
Authority Board to control multiple source medications, the
prescribing provider may certify that a brand name drug is medically
necessary for the well-being of a patient pursuant to the procedures
provided in this section.

2. Such certification shall be written in the physician's or
other prescribing provider's own handwriting.

3. Certification shall be written directly on the prescription
blank or on a separate sheet attached to the original prescription.

4. The words "brand necessary" or similar words shall be used
indicating the need for a specific brand.

B. A printed box on a prescription blank that may be checked to
indicate brand necessary, or use of a hand written statement that is
transferred to a rubber stamp and then stamped onto the prescription
blank shall be prohibited.

C. 1. If a physician telephones a prescription to a pharmacy
and indicates the need for a specific brand, the pharmacist shall

inform the physician of the requirement of a hand written certification for a specific brand drug.

2. The pharmacist may either request that the certification document be given to the patient, who then delivers it to the pharmacy upon receipt of the prescription, or that the physician send the certification by mail.

D. When a prescribing provider complies with any rule certifying a brand name drug as medically necessary for the well-being of a patient, the pharmacist shall not substitute a generic drug and shall provide to the patient the product prescribed by the prescribing provider.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 5010, is amended to read as follows:

Section 5010. A. The Oklahoma Health Care Authority shall analyze the state-purchased and state-subsidized health care programs and explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

1. Creation of economic incentives for the persons for whom the state purchases or subsidizes health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

2. Utilization of provider arrangements that encourage cost containment and ensure access to quality care, including, but not limited to, prepaid delivery systems, utilization review, and prospective payment methods;

3. Coordination of state agency efforts to purchase drugs effectively;

4. Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

5. Development of data systems to obtain utilization data from state-purchased and state-subsidized health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs.

B. 1. The Authority shall prepare for the Governor, the Legislature and the Joint Legislative Oversight Committee for the Oklahoma Health Care Authority an annual report on the savings realized and all costs incurred in the implementation of any drug cost containment programs including, but not limited to:

- a. implementation of a formulary,
- b. preferred drug list, or
- c. other use of prior authorization.

2. Costs shall include direct costs such as staffing, contracts and other resources used.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 1-1918.2, as last amended by Section 1, Chapter 167, O.S.L. 2003 (63 O.S. Supp. 2003, Section 1-1918.2), is amended to read as follows:

Section 1-1918.2 A. This section shall be known and may be cited as the "Utilization of Unused Prescription Medications Act".

B. The State Board of Health, the Board of Pharmacy and the Oklahoma Health Care Authority shall jointly develop and implement a pilot program consistent with public health and safety through which unused prescription drugs, other than prescription drugs defined as controlled dangerous substances by Section 2-101 of this title, may be transferred from nursing facilities to pharmacies operated by city-county health departments ~~or~~, county pharmacies, charitable pharmacies or free health clinics staffed by volunteers for the purpose of distributing the medication to Oklahoma residents who are medically indigent.

C. The State Board of Health, the Board of Pharmacy, the Oklahoma Health Care Authority, the State Board of Medical Licensure and Supervision, and the State Board of Osteopathic Examiners shall

review and evaluate the program no later than twenty-four (24) months after its implementation and shall submit a report and any recommendations to the Governor, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the State Senate, and the Chairs of the appropriate legislative committees.

D. The State Board of Health, the Board of Pharmacy and the Oklahoma Health Care Authority shall promulgate rules and establish procedures necessary to implement the program established by this section. The rules and procedures shall provide:

1. For a formulary for the medications to be distributed pursuant to the program;

2. For the protection of the privacy of the individual for whom the medication was originally prescribed;

3. For the integrity and safe storage and safe transfer of the medication, which may include, but shall not be limited to, limiting the drugs made available through the program to those that were originally dispensed by unit dose or an individually sealed dose and that remain in intact packaging; provided, however, the rules shall authorize the use of any remaining medications;

4. For the tracking of and accountability for the medications; and

5. For other matters necessary for the implementation of the program.

E. In accordance with the rules and procedures of a program established pursuant to this section, the resident of a nursing facility, or the representative or guardian of a resident may donate unused prescription medications, other than prescription drugs defined as controlled dangerous substances by Section 2-101 of this title, for dispensation to medically indigent persons.

F. Physicians, pharmacists, pharmacies, other health care professionals, and nursing facilities shall not be subject to liability for participation in the program established by the

Utilization of Unused Prescription Medications Act when acting within the scope of practice of their license and in good faith compliance with the rules promulgated pursuant to the Utilization of Unused Prescription Medications Act.

G. For purposes of this section, "medically indigent" means a person who has no health insurance or who otherwise lacks reasonable means to purchase prescribed medications.

SECTION 4. This act shall become effective November 1, 2004.

Passed the Senate the 3rd day of March, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2004.

Presiding Officer of the House
of Representatives