

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2688:

Dorman

AS INTRODUCED

An Act relating to poor persons; creating Prescription Drug Repository Program Act; defining terms; establishing Program at Department of Health; defining criteria; providing for codification; and providing an 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 68 of Title 56, unless there is created a duplication in numbering, reads as follows:

The act shall be known and may be cited as the "Prescription Drug Repository Program Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 69 of Title 56, unless there is created a duplication in numbering, reads as follows:

As used in the Prescription Drug Repository Program Act:

1. "Health care professional" means any of the following persons licensed and authorized to prescribe and dispense drugs and to provide medical, dental, or other health-related diagnoses, care or treatment:

- a. a licensed physician,
- b. a registered nurse practitioner,
- c. a physician assistant,
- d. a dentist,
- e. an optometrist, and
- f. a pharmacist;

2. "Hospital" has the same meaning as such term is defined in Section 1-701 of Title 63 of the Oklahoma Statutes;

3. "Nonprofit clinic" means a facility organized as not-for-profit in which advice, counseling, diagnosis, treatment, surgery, care or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four (24) consecutive hours to persons not residing or confined at such facility; and

4. "Prescription drug" means a drug which may be dispensed only upon prescription by a person authorized by their licensing authority and which is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug and Cosmetic Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. By January 1, 2005, the Oklahoma State Department of Health shall establish the "Prescription Drug Repository Program" to accept and dispense prescription drugs donated for the purpose of being dispensed to persons who are residents of Oklahoma and who meet eligibility requirements.

B. The following criteria shall be used in accepting drugs for use in the Program:

1. Only prescription drugs in their original sealed and tamper-evident unit dose packaging shall be accepted and dispensed pursuant to the Program;

2. The packaging must be unopened, except that cancer drugs packaged in single-unit doses may be accepted and dispensed when the outside packaging is opened if the single-unit-dose packaging has not been opened;

3. Prescription drugs donated by individuals and prescription drugs bearing an expiration date that is less than six (6) months

from the date the prescription drug is donated shall not be accepted or dispensed;

4. A prescription drug shall not be accepted or dispensed if there is reason to believe that the drug is adulterated; and

5. Subject to the limitation specified in this section, unused prescription drugs dispensed for purposes of a medical assistance program may be accepted and dispensed under the Prescription Drug Repository Program.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 71 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Any person, including but not limited to a prescription drug manufacturer or health care facility, may donate prescription drugs to the Prescription Drug Repository Program. The drugs shall be donated at a pharmacy, hospital, or nonprofit clinic that elects to participate in the Prescription Drug Repository Program and meets the criteria for participation established by rule of the Department. Participation in the Program by pharmacies, hospitals, and nonprofit clinics shall be voluntary. Nothing in the Prescription Drug Repository Program Act shall require any pharmacy, hospital, or nonprofit clinic to participate in the Program.

B. A pharmacy, hospital, or nonprofit clinic which meets the eligibility requirements established in the Prescription Drug Repository Program Act may dispense prescription drugs donated under the Program to persons who are residents of Oklahoma and who meet the eligibility requirements of the Program, or to other governmental entities and nonprofit private entities who dispense prescription drugs to persons who meet the eligibility requirements of the Program. A prescription drug shall be dispensed only pursuant to a prescription issued by a health care professional. A pharmacy, hospital, or nonprofit clinic which accepts donated prescription drugs shall comply with all applicable federal and

state laws dealing with the storage and distribution of dangerous drugs and shall inspect all prescription drugs prior to dispensing the prescription drugs to determine that they are not adulterated. The pharmacy, hospital, or nonprofit clinic may charge persons receiving donated prescription drugs a handling fee established by rule by the State Board of Health. Prescription drugs donated to the Program shall not be resold.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 72 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The following persons and entities when acting in good faith and in compliance with the Prescription Drug Repository Program Act shall not be subject to criminal or civil liability for injury, or loss to person or property, or professional disciplinary action for matters related to donating, accepting, or dispensing prescription drugs under the Prescription Drug Repository Program:

1. The Oklahoma State Board of Health;
2. The Commissioner of Health;
3. Any prescription drug manufacturer, governmental entity, or person donating prescription drugs to the Program;
4. Any pharmacy, hospital, nonprofit clinic, or health care professional that accepts or dispenses prescription drugs under the Program; and
5. Any pharmacy, hospital, or nonprofit clinic that employs a health care professional who accepts or dispenses prescription drugs under the Program.

B. A prescription drug manufacturer shall not, in the absence of bad faith, be subject to criminal or civil liability for injury, or loss to person or property for matter related to the donation, acceptance, or dispensing of a prescription drug manufactured by the prescription drug manufacturer that is donated by any person under the Program, including but not limited to liability for failure to

transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 73 of Title 56, unless there is created a duplication in numbering, reads as follows:

In consultation with the Board of Pharmacy, the State Board of Health shall adopt and promulgate rules to implement the Prescription Drug Repository Program. Such rules shall include:

1. Eligibility criteria for pharmacies, hospitals and nonprofit clinics to receive and dispense donated prescription drugs under the Program;

2. Standards and procedures for accepting, safely storing, and dispensing donated prescription drugs;

3. Standards and procedures for inspecting donated prescription drugs to determine that the original single-unit-dose packaging is sealed and tamper-evident and that the prescription drugs are unadulterated, safe, and suitable for dispensing;

4. Eligibility requirements for recipients in the Program based on the economic need of persons who will receive prescription drugs under the Program;

5. An identification card by which a person who is eligible to receive donated prescription drugs under the Program, may demonstrate eligibility to the pharmacy, hospital, or nonprofit clinic;

6. A form that a person receiving a prescription drug from the Program must sign before receiving the drug in order to confirm that such person understands the criminal and civil immunity from liability provisions of the Program;

7. A maximum handling fee that pharmacies, hospitals, and nonprofit clinics may charge to drug recipients to cover restocking and dispensing costs;

8. For prescription drugs donated to the Program by individuals:

- a. a list of prescription drugs, arranged by category or by individual drug, that the Program will and will not accept from individuals. If a drug is ineligible for donation, the list must include a statement as to the reason the drug is ineligible for donation, and
- b. a form each donor must sign stating that the donor is the owner of the prescription drugs and intends to voluntarily donate such drugs to the Program;

9. For prescription drugs donated to the Program by health care facilities, a list of prescription drugs, arranged by category or by individual drug, that the Program will and will not accept from health care facilities. If a drug is ineligible for donation, the list must include a statement as to the reason the drug is ineligible for donation; and

10. Any other standards and procedures the Department deems appropriate or necessary to implement the provisions of this act.

SECTION 7. This act shall become effective November 1, 2004.

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