

"Utilization of Unused Prescription Medications Act".

Added by Laws 2004, c. 374, § 1, emerg. eff. June 3, 2004.
Including amendments up to November 1015.

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§59-367.1. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "Utilization of Unused Prescription Medications Act".

Added by Laws 2004, c. 374, § 1, emerg. eff. June 3, 2004.

§59-367.2. Definitions.

As used in the Utilization of Unused Prescription Medications Act:

1. "Assisted living center" has the same meaning as such term is defined in Section 1-890.2 of Title 63 of the Oklahoma Statutes;

2. "Cancer drugs" means any of several drugs that control or kill neoplastic cells, commonly referred to as "cancer-fighting drugs"; and includes, but is not limited to, drugs used in chemotherapy to destroy cancer cells;

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

- a. a physician holding a current license to practice medicine pursuant to Chapter 11 or Chapter 14 of Title 59 of the Oklahoma Statutes,

- b. an advanced practice nurse licensed pursuant to Chapter 12 of Title 59 of the Oklahoma Statutes,
- c. a physician assistant licensed pursuant to Chapter 11 of Title 59 of the Oklahoma Statutes,
- d. a dentist licensed pursuant to Chapter 7 of Title 59 of the Oklahoma Statutes,
- e. an optometrist licensed pursuant to Chapter 13 of Title 59 of the Oklahoma Statutes, and
- f. a pharmacist licensed pursuant to Chapter 8 of Title 59 of the Oklahoma Statutes;

4. "Medically indigent" means a person eligible to receive Medicaid or Medicare or a person who has no health insurance and who otherwise lacks reasonable means to purchase prescribed medications;

5. "Charitable clinic" means a charitable nonprofit corporation or a facility organized as a not-for-profit pursuant to the provisions of the Oklahoma General Corporation Act that:

- a. holds a valid exemption from federal income taxation issued pursuant to Section 501(a) of the Internal Revenue Code (26 U.S.C., Section 501(a)),
- b. is listed as an exempt organization under 501(c) of the Internal Revenue Code (26 U.S.C., Section 501(c)),
- c. provides on an outpatient basis for a period of less than twenty-four (24) consecutive hours to persons not residing or confined at such facility advice, counseling, diagnosis, treatment, surgery, care or services relating to the preservation or maintenance of health, and
- d. has a licensed outpatient pharmacy; and

6. "Prescription drug" means a drug which may be dispensed only upon prescription by a health care professional authorized by his or her 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 (52 Stat. 1040 (1938), 21 U.S.C.A., Section 301).

Added by Laws 2004, c. 374, § 2, emerg. eff. June 3, 2004.

§59-367.3. Program for utilization of unused prescription drugs.

A. The Board of Pharmacy shall implement statewide a program consistent with public health and safety through which unused prescription drugs, other than prescription drugs defined

as controlled dangerous substances in Section 2-101 of Title 63 of the Oklahoma Statutes, may be transferred from residential care homes, nursing facilities, assisted living centers, public intermediate care facilities for people with mental retardation (ICF/MR) or pharmaceutical manufacturers to pharmacies operated by a county. If no county pharmacy exists, or if a county pharmacy chooses not to participate, such unused prescription medications may be transferred to a pharmacy operated by a city-county health department or a pharmacy under contract with a city-county health department, a pharmacy operated by the Department of Mental Health and Substance Abuse Services or a charitable clinic for the purpose of distributing the unused prescription medications to Oklahoma residents who are medically indigent.

B. The Board of Pharmacy shall promulgate rules and establish procedures necessary to implement the program established by the Utilization of Unused Prescription Medications Act.

C. The Board of Pharmacy shall provide technical assistance to entities who may wish to participate in the program. Added by Laws 2001, c. 281, § 1, eff. Nov. 1, 2001. Amended by Laws 2002, c. 462, § 3, eff. July 1, 2002; Laws 2003, c. 167, § 1, emerg. eff. May 5, 2003; Laws 2004, c. 374, § 3, emerg. eff. June 3, 2004. Renumbered from § 1-1918.2 of Title 63 by Laws 2004, c. 374, § 9, emerg. eff. June 3, 2004. Amended by Laws 2005, c. 285, § 1, eff. Nov. 1, 2005; Laws 2006, c. 109, § 1, eff. Nov. 1, 2006.

§59-367.4. Criteria for accepting unused prescription drugs.

The following criteria shall be used in accepting unused prescription drugs for use under the Utilization of Unused Prescription Medications Act:

1. Only prescription drugs in their original sealed unit dose packaging or unused injectables shall be accepted and dispensed pursuant to the Utilization of Unused Prescription Medications Act;

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. Expired prescription drugs shall not be accepted;

4. A prescription drug shall not be accepted or dispensed if the person accepting or dispensing the drug has reason to believe that the drug is adulterated;

5. No controlled dangerous substances shall be accepted; and

6. Subject to the limitation specified in this section, unused prescription drugs dispensed for purposes of a medical assistance program or drug product donation program may be accepted and dispensed under the Utilization of Unused Prescription Medications Act.

Added by Laws 2004, c. 374, § 4, emerg. eff. June 3, 2004.

§59-367.5. Participation in program voluntary - Acts and obligations of participating organization - Government reimbursement not considered resale.

A. Participation in the Utilization of Unused Prescription Medications Act by pharmacies, nursing homes, assisted living centers, charitable clinics or prescription drug manufacturers shall be voluntary. Nothing in the Utilization of Unused Prescription Medications Act shall require any pharmacy, nursing home, assisted living center, charitable clinic or prescription drug manufacturer to participate in the program.

B. A pharmacy or charitable clinic which meets the eligibility requirements established in the Utilization of Unused Prescription Medications Act may:

1. Dispense prescription drugs donated under the Utilization of Unused Prescription Medications Act to persons who are medically indigent residents of Oklahoma as established in rules by the Board of Pharmacy; and

2. Charge persons receiving donated prescription drugs a handling fee established by rule by the Board of Pharmacy.

C. A pharmacy or charitable clinic which meets the eligibility requirements established and authorized by the Utilization of Unused Prescription Medications Act which accepts donated prescription drugs shall:

1. Comply with all applicable federal and state laws related to the storage and distribution of dangerous drugs;

2. Inspect all prescription drugs prior to dispensing the prescription drugs to determine that such drugs are not adulterated; and

3. Dispense prescription drugs only pursuant to a prescription issued by a health care professional.

D. Prescription drugs donated under the Utilization of Unused Prescription Medications Act shall not be resold.

E. For purposes of the Utilization of Unused Prescription Medications Act, reimbursement from governmental agencies to charitable clinics shall not be considered resale of prescription drugs.

Added by Laws 2004, c. 374, § 5, emerg. eff. June 3, 2004.

§59-367.6. Liability of participating organizations and manufacturers - Bad faith or gross negligence.

A. For matters related only to the lawful donation, acceptance, or dispensing of prescription drugs under the Utilization of Unused Prescription Medications Act, the following persons and entities, in compliance with the Utilization of Unused Prescription Medications Act, in the absence of bad faith or gross negligence, shall not be subject to criminal or civil liability for injury other than death, or loss to person or property, or professional disciplinary action:

1. The Board of Pharmacy;

2. The Department of Mental Health and Substance Abuse Services;

3. Any prescription drug manufacturer, governmental entity, nursing home, or assisted living center donating prescription drugs under the Utilization of Unused Prescription Medications Act;

4. Any prescription drug manufacturer or its representative that directly donates prescription drugs in professional samples to a charitable clinic or a pharmacy under the Utilization of Unused Prescription Medications Act;

5. Any pharmacy, charitable clinic or health care professional that accepts or dispenses prescription drugs under the Utilization of Unused Prescription Medications Act; and

6. Any pharmacy, charitable clinic, city-county pharmacy or other state-contracted pharmacy that employs a health care professional who accepts or can legally dispense prescription drugs under the Utilization of Unused Prescription Medications Act and the Oklahoma Pharmacy Act.

B. For matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the prescription drug manufacturer that is donated by any entity under the Utilization of Unused Prescription Medications Act, a prescription drug manufacturer shall not, in the absence of bad faith or gross negligence, be subject to criminal or civil

liability for injury other than for death, or loss to person or property 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.

Added by Laws 2004, c. 374, § 6, emerg. eff. June 3, 2004.

§59-367.7. Promulgation of rules - Donation of unused prescription drugs.

A. The Board of Pharmacy shall promulgate emergency rules by December 1, 2004, to implement the Utilization of Unused Prescription Medications Act. Permanent rules shall be promulgated pursuant to the Administrative Procedures Act. Such rules shall include:

1. Eligibility criteria for pharmacies and charitable clinics authorized to receive and dispense donated prescription drugs under the Utilization of Unused Prescription Medications Act;

2. Establishment of a formulary which shall include all prescription drugs approved by the federal Food and Drug Administration;

3. Standards and procedures for transfer, acceptance, safe storage, security, and dispensing of donated prescription drugs;

4. A process for seeking input from the State Department of Health in establishing provisions which affect nursing homes and assisted living centers;

5. A process for seeking input from the Department of Mental Health and Substance Abuse Services in establishing provisions which affect mental health and substance abuse clients;

6. Standards and procedures for inspecting donated prescription drugs to ensure that the drugs are in compliance with the Utilization of Unused Prescription Medications Act and to ensure that, in the professional judgment of the pharmacist, the medications meet all federal and state standards for product integrity;

7. Procedures for destruction of medications that are donated which are controlled substances;

8. Procedures for verifying whether the pharmacy and responsible pharmacist participating in the program are licensed and in good standing with the Board of Pharmacy;

9. Establishment of standards for acceptance of unused prescription medications from assisted living centers; and

10. Any other standards and procedures the Board of Pharmacy deems appropriate or necessary to implement the provisions of the Utilization of Unused Prescription Medications Act.

B. In accordance with the rules and procedures of the program established pursuant to this section, a resident of a nursing facility or assisted living center, 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 Title 63 of the Oklahoma Statutes, for dispensation to medically indigent persons.

Added by Laws 2004, c. 374, § 7, emerg. eff. June 3, 2004.

Amended by Laws 2005, c. 73, § 1, emerg. eff. April 19, 2005.

§59-367.8. Maintenance of controlled dangerous substances in emergency kits by pharmacies - Definitions.

A. A pharmacy may maintain controlled dangerous substances in an emergency medication kit used at a facility. The controlled dangerous substances may be used only for the emergency medication needs of a resident at the facility. A pharmacy may maintain drugs in an emergency medication kit for any facility.

B. The State Board of Pharmacy shall promulgate rules relating to emergency medication kits, including, but not limited to:

1. The amount and type of controlled dangerous substances that may be maintained in an emergency medication kit;
2. Procedures regarding the use of drugs from an emergency medication kit;
3. Recordkeeping requirements; and
4. Security requirements.

C. As used in this section, "facility" means a facility as defined by the Nursing Home Care Act or an assisted living center as defined by the Continuum of Care and Assisted Living Act.

Added by Laws 2009, c. 74, § 1, eff. Nov. 1, 2009. Amended by Laws 2010, c. 247, § 1, emerg. eff. May 10, 2010; Laws 2011, c. 7, § 1, eff. Nov. 1, 2011.

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