
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 186 Session of
2007

INTRODUCED BY SOLOBAY, CALTAGIRONE, CAPPELLI, CARROLL, COHEN,
COX, DALEY, J. EVANS, FABRIZIO, FRANKEL, GALLOWAY, GEIST,
GEORGE, GIBBONS, GINGRICH, GOODMAN, GRUCELA, HENNESSEY,
HERSHEY, HESS, HORNAMAN, JAMES, KOTIK, KULA, MAHONEY, MANN,
MELIO, MILLARD, MOYER, MUNDY, M. O'BRIEN, PALLONE, PETRARCA,
PETRONE, REICHLEY, SABATINA, SAINATO, STABACK, SURRA, VEREB,
WALKO, WOJNAROSKI AND YOUNGBLOOD, FEBRUARY 1, 2007

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
FEBRUARY 1, 2007

AN ACT

1 Establishing the Cancer Drug Repository Program for accepting
2 donated cancer drugs and dispensing cancer drugs.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Cancer Drug
7 Repository Program Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Board." The State Board of Pharmacy.

13 "Cancer drug." A prescription drug used to treat any of the
14 following:

15 (1) Cancer or its side effects.

(2) The side effects of a prescription drug used to treat cancer or its side effects.

"Health care facility." A for-profit or nonprofit entity providing clinically related health services, including those operated by the Commonwealth or its political subdivisions and including a general or special hospital, including psychiatric hospitals, rehabilitation hospitals, ambulatory surgical facilities, long-term care nursing facilities, a hospice, cancer treatment center using radiation therapy on an ambulatory basis and inpatient drug and alcohol treatment facility.

"Health clinic." A for-profit or nonprofit clinic providing health services.

"Hospital." An entity licensed as a hospital under:

(1) the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code; or

(2) the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Pharmacy." A pharmacy licensed by the Commonwealth.

"Physician's office." The office of a person licensed to practice medicine and surgery or osteopathic medicine and surgery.

"Prescribing practitioner." A health care practitioner licensed under the laws of this Commonwealth who is authorized to prescribe cancer drugs.

"Prescription drug." All drugs requiring a prescription in this Commonwealth.

"Program." The Cancer Drug Repository Program established in section 3.

Section 3. Establishment.

The board shall establish a Cancer Drug Repository Program

1 for accepting donated cancer drugs and dispensing cancer drugs
2 to residents of this Commonwealth. Participation in the program
3 shall be voluntary.

4 Section 4. Donation of cancer drugs.

5 Any person or entity, including, but not limited to, a cancer
6 drug manufacturer or health care facility, may donate cancer
7 drugs to the program. Cancer drugs may be donated at a
8 physician's office, pharmacy, hospital or health clinic that
9 elects to participate in the program and meets the criteria
10 established by the board for participation.

11 Section 5. Acceptance and dispensation of cancer drugs.

12 (1) A cancer drug shall only be accepted or dispensed
13 under the program if the drug is in its original unopened,
14 sealed and tamper-evident unit dose packaging. A cancer drug
15 packaged in single-unit doses may be accepted and dispensed
16 if the outside packaging is opened but the single-unit-dose
17 packaging is unopened.

18 (2) A cancer drug shall not be accepted or dispensed
19 under the program if the drug bears an expiration date that
20 is earlier than six months after the date the drug was
21 donated or the drug is adulterated or misbranded.

22 (3) Except as provided in this subsection, unused cancer
23 drugs dispensed under a State medical assistance program may
24 be accepted and dispensed under the program.

25 Section 6. Storage, distribution and fees.

26 (1) A physician's office, pharmacy, hospital or health
27 clinic that accepts donated cancer drugs under the program
28 shall comply with all applicable provisions of Federal and
29 State law relating to the storage, distribution and
30 dispensing of cancer drugs and shall inspect all cancer drugs

1 prior to dispensing to determine if they are adulterated or
2 misbranded. The drugs shall only be dispensed pursuant to a
3 prescription issued by a prescribing practitioner. The drugs
4 may be distributed to another participating physician's
5 office, pharmacy, hospital or health clinic for dispensing.

6 (2) A physician's office, pharmacy, hospital or health
7 clinic may charge a handling fee for distributing or
8 dispensing cancer drugs under the program. The fee shall be
9 established in regulations promulgated by the board. Cancer
10 drugs donated under the program shall not be resold.

11 Section 7. Immunity.

12 (1) Any person or entity, including a cancer drug
13 manufacturer, which exercises reasonable care in donating,
14 accepting, distributing or dispensing cancer drugs under the
15 program shall be immune from civil or criminal liability or
16 professional disciplinary action for any injury, death or
17 loss to a person or property relating to such activities.

18 (2) Notwithstanding paragraph (1), the donation of a
19 cancer drug by a cancer drug manufacturer shall not:

20 (i) Absolve the manufacturer of any criminal or
21 civil liability that would have existed except for the
22 donation.

23 (ii) Increase the liability of the cancer drug
24 manufacturer that would have existed except for the
25 donation.

26 Section 8. Regulations.

27 The board shall promulgate regulations to carry out the
28 purposes of this act within 90 days of the effective date of
29 this act. The regulations shall include:

30 (1) Eligibility criteria and other standards and

1 procedures for physician's offices, pharmacies, pharmacists,
2 hospitals and health clinics that accept and distribute or
3 dispense donated cancer drugs.

4 (2) Necessary forms for administration of the program,
5 including forms for use by persons or entities that donate
6 cancer drugs under the program.

7 (3) The maximum handling fee that may be charged by
8 physician's offices, pharmacies, hospitals or health clinics
9 that accept and distribute or dispense donated cancer drugs.

10 (4) Categories of cancer drugs that the program will
11 accept for dispensing and categories of cancer drugs that the
12 program will not accept for dispensing and the reason that
13 the drugs will not be accepted.

14 Section 25. Effective date.

15 This act shall take effect in 60 days.