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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 2482** Session of  
2006

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INTRODUCED BY SOLOBAY, DeWEESE, COHEN, BEBKO-JONES, BEYER, BUNT, CALTAGIRONE, CAPPELLI, CORNELL, CRAHALLA, DENLINGER, DONATUCCI, J. EVANS, FABRIZIO, FRANKEL, FREEMAN, GEORGE, GINGRICH, GODSHALL, GOODMAN, GRUCELA, HENNESSEY, HERSHEY, HESS, JAMES, LaGROTTA, LEACH, LEDERER, MANN, MILLARD, MUNDY, MYERS, PALLONE, PHILLIPS, PISTELLA, READSHAW, REICHLEY, SCHRODER, SIPTROTH, STABACK, THOMAS, TIGUE, WALKO, WANSACZ, WOJNAROSKI, YOUNGBLOOD AND GEIST, MARCH 6, 2006

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REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,  
MARCH 6, 2006

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

14 (1) Cancer or its side effects.

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

3           "Department." The Department of Health of the Commonwealth.

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

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

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

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

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

19          "Pharmacy." A pharmacy licensed by the Commonwealth.

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

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

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

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

30          Section 3. Establishment.

1 The department shall establish a Cancer Drug Repository  
2 Program for accepting donated cancer drugs and dispensing cancer  
3 drugs to residents of this Commonwealth. Participation in the  
4 program shall be voluntary.

5 Section 4. Donation of cancer drugs.

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

12 Section 5. Acceptance and dispensation of cancer drugs.

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

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

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

26 Section 6. Storage, distribution and fees.

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

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

7 (2) A physician's office, pharmacy, hospital or health  
8 clinic may charge a handling fee for distributing or  
9 dispensing cancer drugs under the program. The fee shall be  
10 established in regulations promulgated by the department.

11 Cancer drugs donated under the program shall not be resold.

#### 12 Section 7. Immunity.

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

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

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

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

#### 27 Section 8. Regulations.

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

1           (1) Eligibility criteria and other standards and  
2           procedures for physician's offices, pharmacies, hospitals and  
3           health clinics that accept and distribute or dispense donated  
4           cancer drugs.

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

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

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

16 Section 25. Effective date.

17 This act shall take effect in 60 days.