No. 2008-14

AN ACT

SB 638

Establishing the Cancer Drug Repository Program for accepting donated cancer drugs and dispensing cancer drugs; and providing for the powers and duties of the State Board of Pharmacy.

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

Section 1. Short title.

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

Section 2. Definitions.

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

"Approved participating pharmacy." A pharmacy approved by the State Board of Pharmacy for the purpose of dispensing unused cancer drugs to participating entities and to patients who are indigent.

"Board." The State Board of Pharmacy of the Commonwealth.

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

(1) Cancer or its side effects.

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

"Closed drug delivery system." A system in which the actual control of a unit dose medication is maintained by a health care facility, health clinic, hospital, pharmacy or physician's office rather than an individual patient.

"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, a cancer treatment center using radiation therapy on an ambulatory basis and an 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 the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Pharmacist." A pharmacist licensed by the Commonwealth.

"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." A drug requiring a prescription in this Commonwealth.

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

"Unit dose system." A system wherein all individually sealed unit doses are physically connected as a unit.

Section 3. Establishment.

The board shall establish a Cancer Drug Repository Program consistent with public health and safety standards through which unused cancer drugs may be redispensed to cancer patients by pharmacies approved by the board for the purpose of dispensing unused cancer drugs to residents who are indigent. The board shall develop and promulgate rules and regulations to establish procedures necessary to implement the program. Participation in the program shall be voluntary.

Section 4. Restocking and dispensing of cancer drugs.

An entity that is part of a closed drug delivery system may return to an approved participating pharmacy an unused cancer drug under the following conditions:

(1) If the cancer drug is in its original unopened, sealed and tamper-evident unit dose packaging. A cancer drug packaged in single-unit doses may be accepted and dispensed if the outside packaging is opened but the single-unit-dose packaging is unopened.

(2) The cancer drug may not be accepted or dispensed by the approved participating pharmacy if the cancer drug bears an expiration date that is earlier than six months after the date the cancer drug was restocked or the cancer drug is adulterated or misbranded.

(3) Except as provided in this subsection, an unused cancer drug dispensed under a State medical assistance program may be accepted and dispensed by the approved participating pharmacy.

(4) In the case of controlled substances, as it is allowed by Federal law.

Section 5. Storage, distribution and fees.

(a) General rule.—An approved participating pharmacy that accepts donated cancer drugs under the Cancer Drug Repository Program shall comply with all applicable provisions of Federal and State law relating to the storage, distribution and dispensing of cancer drugs and shall inspect all cancer drugs prior to dispensing to determine if they are adulterated or misbranded. The cancer drugs shall only be dispensed by a pharmacist according to State law pursuant to a prescription issued by a prescribing practitioner. The cancer drugs may be distributed to another participating physician's office, pharmacy, hospital or health clinic for dispensing by a pharmacist as allowed by Federal or State law.

(b) Handling fee.—An approved participating pharmacy may charge a handling fee for distributing or dispensing cancer drugs under the program. The fee shall be established in regulations promulgated by the board. Cancer drugs donated under the program shall not be resold.

(c) No compensation for returned or redispensed drugs.—

(1) No participating health care facility, health clinic, hospital, pharmacist, pharmacy or physician's office that provides unused prescription drugs to the program in accordance with this act shall be required to compensate another entity for the cost of any drug returned and redispensed under this act.

(2) This subsection shall not apply to drugs dispensed under any Federal prescription drug program.

(d) Recordkeeping.—A participating entity shall record and log the exact quantity, name and strength of drug prior to returning the drugs to an approved participating pharmacy. The approved participating pharmacy that receives the drug shall record receipt and verify the quantity of drugs.

Section 6. Immunity.

Any person or entity, acting in good faith, who exercises reasonable care in donating, accepting, distributing, dispensing or manufacturing cancer drugs donated and utilized under the program shall be immune from civil or criminal liability or professional disciplinary action for any injury, death or loss to a person or property relating to activities under the program. Immunity granted under this section is solely applicable to the donation, acceptance, distribution, dispensing or manufacture of the actual medications donated to the program and is explicitly not a general waiver of liability.

Section 7. Regulations.

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

(1) Income eligibility criteria and other standards and procedures for individuals participating in the program, determined by the Department of Public Welfare in conjunction with the board.

(2) Eligibility criteria and other standards and procedures for entities participating in the program that restock and distribute or dispense donated cancer drugs.

(3) Necessary forms for administration of the program, including forms for use by entities permitted to accept, distribute or dispense cancer drugs under the program.

(4) The maximum handling fee that may be charged by entities permitted to restock and distribute or dispense donated cancer drugs.

(5) Categories of cancer drugs that the program will accept for dispensing and categories of cancer drugs that the program will not accept for dispensing and the reason that the cancer drugs will not be accepted.

(6) Informed consent provision for patients participating in the program indicating that the cancer drug has been restocked and redistributed.

(7) Provisions for recalls of the drug if necessary.

(8) Procedures for entities participating in the program to minimize theft and diversion.

Section 25. Effective date.

This act shall take effect in 60 days.

APPROVED—The 13th day of May, A.D. 2008.

EDWARD G. RENDELL