

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 756**

Introduced by McDonald, 41; Aguilar, 35; Baker, 44; Bourne, 8; Burling, 33; Byars, 30; Combs, 32; Connealy, 16; Cudaback, 36; Cunningham, 40; Erdman, 47; Hudkins, 21; Jensen, 20; Johnson, 37; Jones, 43; Kremer, 34; Kruse, 13; Mines, 18; Mossey, 3; Dw. Pedersen, 39; D. Pederson, 42; Preister, 5; Price, 26; Redfield, 12; Schimek, 27; Smith, 48; Stuhr, 24; Stuthman, 22; Synowiecki, 7; Thompson, 14; Tyson, 19; Vrtiska, 1; Wehrbein, 2

Read first time January 22, 2003

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to health; to adopt the Cancer Drug Repository
- 2 Program Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1.    This act shall be known and may be cited as  
2 the Cancer Drug Repository Program Act.

3           Sec. 2.    For purposes of the Cancer Drug Repository  
4 Program Act:

5           (1) Cancer drug means a prescription drug used in the  
6 treatment of cancer;

7           (2) Health care professional means any of the following  
8 persons licensed under the Uniform Licensing Law who are authorized  
9 to prescribe and dispense drugs and to provide medical, dental, or  
10 other health-related diagnosis, care, or treatment:

11           (a) A physician or osteopathic physician licensed to  
12 practice medicine and surgery;

13           (b) A registered nurse or licensed practical nurse;

14           (c) A physician assistant;

15           (d) A dentist;

16           (e) A dental hygienist;

17           (f) An optometrist; and

18           (g) A pharmacist;

19           (3) Hospital has the definition found in section 71-419;

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

26           (5) Prescription drug has the meaning found in section  
27 71-1,142.

28           Sec. 3.    The Department of Health and Human Services

1 shall establish a cancer drug repository program to accept and  
2 dispense cancer drugs donated for the purpose of being dispensed to  
3 individuals who are residents of Nebraska and who meet eligibility  
4 standards established in rules and regulations adopted under  
5 section 6 of this act. Only cancer drugs in their original sealed  
6 and tamper-evident unit dose packaging may be accepted and  
7 dispensed pursuant to the program. The packaging must be unopened,  
8 except that cancer drugs packaged in single unit doses may be  
9 accepted and dispensed when the outside packaging is opened if the  
10 single-unit-dose packaging is undisturbed. Cancer drugs donated by  
11 individuals bearing an expiration date that is less than six months  
12 from the date the cancer drug is donated shall not be accepted by  
13 or dispensed. A cancer drug shall not be accepted or dispensed if  
14 there is reason to believe that it is adulterated as described in  
15 section 71-2401. Subject to the limitation specified in this  
16 section, unused cancer drugs dispensed for purposes of the medical  
17 assistance program established under sections 68-1018 to 68-1025  
18 may be accepted by and dispensed under the cancer drug repository  
19 program.

20           Sec. 4. (1) Any person, including, but not limited to, a  
21 cancer drug manufacturer or health care facility, may donate cancer  
22 drugs to the cancer drug repository program. The cancer drugs must  
23 be donated at a pharmacy, hospital, or nonprofit clinic that elects  
24 to participate in the cancer drug repository program and meets  
25 criteria for participation in the program established in rules and  
26 regulations adopted pursuant to section 6 of this act.  
27 Participation in the program by pharmacies, hospitals, and  
28 nonprofit clinics shall be voluntary. The Cancer Drug Repository

1 Program Act does not require any pharmacy, hospital, or nonprofit  
2 clinic to participate in the program.

3 (2) A pharmacy, hospital, or nonprofit clinic which meets  
4 the eligibility standards established pursuant to section 6 of this  
5 act may dispense cancer drugs donated under the program to  
6 individuals who are residents of Nebraska and meet the eligibility  
7 standards or to other governmental entities and nonprofit private  
8 entities to be dispensed to individuals who meet the eligibility  
9 standards. A cancer drug may be dispensed only pursuant to a  
10 prescription issued by a health care professional. A pharmacy,  
11 hospital, or nonprofit clinic which accepts donated cancer drugs  
12 shall comply with all applicable federal laws and laws of this  
13 state dealing with storage and distribution of dangerous drugs and  
14 shall inspect all cancer drugs prior to dispensing the cancer drugs  
15 to determine that they are not adulterated as described in section  
16 71-2401. The pharmacy, hospital, or nonprofit clinic may charge  
17 individuals receiving donated cancer drugs a handling fee  
18 established in rules and regulations adopted under section 6 of  
19 this act. Cancer drugs donated to the program shall not be resold.

20 Sec. 5. (1) The following persons and entities when  
21 acting in good faith shall not be subject to criminal prosecution,  
22 liability in tort or other civil action for injury, death, or loss  
23 to person or property, or professional disciplinary action for  
24 matters related to donating, accepting, or dispensing cancer drugs  
25 under the cancer drug repository program: The Department of Health  
26 and Human Services; the Director of Health and Human Services; any  
27 cancer drug manufacturer, governmental entity, or person donating  
28 cancer drugs to the program; any pharmacy, hospital, nonprofit

1 clinic, or health care professional that accepts or dispenses  
2 cancer drugs under the program; and any pharmacy, hospital, or  
3 nonprofit clinic that employs a health care professional who  
4 accepts or dispenses cancer drugs under the program.

5 (2) A cancer drug manufacturer shall not, in the absence  
6 of bad faith, be subject to criminal prosecution or liability in  
7 tort or other civil action for injury, death, or loss to person or  
8 property for matters related to the donation, acceptance, or  
9 dispensing of a cancer drug manufactured by the cancer drug  
10 manufacturer that is donated by any person under the program,  
11 including, but not limited to, liability for failure to transfer or  
12 communicate product or consumer information or the expiration date  
13 of the donated cancer drug.

14 Sec. 6. In consultation with the Board of Pharmacy, the  
15 Director of Health and Human Services shall adopt and promulgate  
16 rules and regulations to carry out the Cancer Drug Repository  
17 Program Act not less than ninety days after the operative date of  
18 this act. Such rules and regulations shall include:

19 (1) Eligibility criteria for pharmacies, hospitals, and  
20 nonprofit clinics to receive and dispense donated cancer drugs  
21 under the cancer drug repository program;

22 (2) Standards and procedures for accepting, safely  
23 storing, and dispensing donated cancer drugs;

24 (3) Standards and procedures for inspecting donated  
25 cancer drugs to determine that the original single-unit-dose  
26 packaging is sealed and tamper-evident and that the cancer drugs  
27 are unadulterated, safe, and suitable for dispensing;

28 (4) Eligibility standards based on economic need for

1 individuals to receive cancer drugs under the program;

2 (5) An identification card by which an individual who is  
3 eligible to receive donated cancer drugs under the program may  
4 demonstrate eligibility to the pharmacy, hospital, or nonprofit  
5 clinic dispensing the cancer drugs;

6 (6) A form that an individual receiving a cancer drug  
7 from the program must sign before receiving the cancer drug to  
8 confirm that the individual understands the immunity provisions of  
9 the program;

10 (7) Establish a maximum handling fee that pharmacies,  
11 hospitals, and nonprofit clinics may charge to cancer drug  
12 recipients to cover restocking and dispensing costs;

13 (8) For cancer drugs donated to the program by  
14 individuals:

15 (a) A list of cancer drugs, arranged either by category  
16 or by individual cancer drug, that the program will accept from  
17 individuals;

18 (b) A list of cancer drugs, arranged either by category  
19 or by individual cancer drug, that the program will not accept from  
20 individuals. The list must include a statement as to why the  
21 cancer drug is ineligible for donation; and

22 (c) A form each donor must sign, stating that the donor  
23 is the owner of the cancer drugs and intends to voluntarily donate  
24 them to the program;

25 (9) For cancer drugs donated to the program by health  
26 care facilities:

27 (a) A list of cancer drugs, arranged either by category  
28 or by individual cancer drug, that the program will accept from

1 health care facilities; and

2 (b) A list of cancer drugs, arranged either by category  
3 or by individual cancer drug, that the program will not accept from  
4 health care facilities. The list must include a statement as to  
5 why the cancer drug is ineligible for donation; and

6 (10) Any other standards and procedures the board  
7 considers appropriate to carry out the act.

8 Sec. 7. This act becomes operative September 15, 2003.