STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 940 By: Pugh

AS INTRODUCED

An Act relating to prescription drugs; creating the Prescription Drug Safety and Cost Reduction Pilot Program Act; providing short title; directing State Department of Health to submit certain application to the United States Secretary of Health and Human Services; directing Department to work with Oklahoma Health Care Authority to identify certain drugs; setting forth criteria for drugs; directing Department to form certain advisory council upon approval of pilot program; stating purpose of advisory council; directing promulgation of rules; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3092 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Prescription Drug Safety and Cost Reduction Pilot Program Act".

B. 1. The Oklahoma State Department of Health shall submit an application to the United States Secretary of Health and Human Services for the purposes of establishing a Canadian prescription

drug importation pilot program that complies with the applicable requirements of 21 U.S.C., Section 384 including, but not limited to, the requirements pertaining to safety and cost savings.

2. For the purposes of making application to Secretary, the Department shall work with the Oklahoma Health Care Authority to identify the top five (5) to ten (10) highly prescribed drugs through the state Medicaid program that have a large cost differential between Canadian and U.S. average prices whose importation will create significant cost savings. Prescription drugs identified:

a. shall be legally importable from Canada under applicable federal and state law,

b. shall not include a controlled dangerous substance,

c. shall not include a biological product,

d. shall not include an infused drug, including a peritoneal dialysis solution,

e. shall not include marijuana, medical marijuana, cannabidiol or related derivatives,

f. shall not include an intravenously injected drug, and

g. shall be in compliance with applicable state and federal standards for safety and effectiveness.

C. The State Department of Health shall, only upon approval of the importation program from the United States Secretary of Health and Human Services, form an advisory council that consists of key

stakeholders including, but not limited to, consumer and patient advocates, pharmacists, health insurers and governmental agencies necessary to propose rules and changes in law to enable the Department to:

1. Issue a request for proposal to contract with a private entity to carry out the provisions of the act;

2. Establish a nominal fee-per-unit of imported pharmaceutical drug to cover only costs necessary to efficiently administer the importation program and not jeopardize consumer savings; and

3. Establish rules or suggest changes in law that shall prohibit pharmaceutical manufacturers, suppliers and pharmacy benefit managers from:

a. taking action, by agreement, unilaterally or otherwise, that has the effect of fixing or otherwise controlling the price that a pharmaceutical supplier, distributor or dispenser charges or advertises from pharmaceuticals in the prescription importation program,

b. discriminating against a pharmaceutical supplier, distributor or dispenser based on whether the supplier, distributor or dispenser participates in the prescription drug importation program,

c. manipulating the pharmaceutical market in this state or adversely affecting consumer access to pharmaceuticals under the prescription drug program,

d. establish rules or suggest changes in law that ensure savings are passed to consumers and not recouped or clawed back, retroactively or otherwise, by pharmaceutical manufacturers or pharmacy benefit managers,

e. establish rules or suggest changes in law to ensure that all imported pharmaceuticals are only sold within the boundaries of the state,

f. establish rules to ensure the pilot program complies with the requirements of 21 U.S.C, Section 360eee and 360eee-1, pertaining to the track and trace requirements in Title II of the Drug Security and Quality Act, before imported prescription drugs come into possession of the wholesaler, and

g. establish a process for seeking all appropriate federal approvals, waivers, exemptions or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the wholesale importation program to the fullest

extent possible without jeopardizing eligibility in the 340B Program.

D. The State Commissioner of Health shall promulgate any rules necessary to effectively implement the provisions of this act should the application to initiate the pilot program be approved by the United States Secretary of Health and Human Services.

SECTION 2. This act shall become effective July 1, 2019.

SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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