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MEMORANDUM

To: Senate Committee on Public Health and Welfare
From: Office of Revisor of Statutes
Date: February 14, 2025
Subject: Bill Brief on Senate Bill 250

Senate Bill 250, as introduced, enacts the right to try for individualized treatments act to permit a manufacturer to make an individualized investigative treatment available to a requesting patient.

Subsection (a) defines an “eligible patient” as an individual with a life-threatening or severely debilitating illness, who has considered all other treatment options currently approved by the US Food and Drug Administration and has received a recommendation from their physician for an individualized investigative treatment. This subsection also provides definitions for other terms used in the bill, such as life-threatening or severely debilitating illness and written, informed consent.

Subsection (b) states that an eligible manufacturer may make available an individualized investigative treatment, but that the act does not require a manufacturer to make such treatment available. It also allows such manufacturer to provide treatment to a patient without receiving compensation or require that an eligible patient pay the costs of the investigational treatment.

Subsection (c) states that this act shall not expand the coverage required of an insurer under the insurance code of Kansas.

Subsection (d) allows a health plan, third party administrator or governmental agency to provide coverage for the cost of investigational treatment and states that this act does not require any governmental agency to pay for the costs associated with an investigational treatment or a hospital or facility to provide new or additional services unless approved by such hospital or facility.

Subsection (e) states that should the patient receiving investigational treatment die during such treatment, then the patient's heirs would not be liable for any outstanding debt associated with the treatment.

Subsection (f) provides that a licensing board shall not revoke, fail to renew, suspend or take any disciplinary action against a healthcare provider's license based solely on such healthcare provider's recommendations to an eligible patient regarding access or treatment with an investigational treatment.

Subsection (g) states an entity responsible for medicare certification shall not take action against a healthcare provider's medicare certification based solely on such healthcare provider's recommendation that a patient have access to an investigational treatment.

Subsection (h) requires that an official, employee or agent of the state shall not block or attempt to block an eligible patient's access to an investigational treatment.

Subsection (i) states that this act does not create a private cause of action against a manufacturer of an investigational treatment or any other person or entity involved in the care of an eligible patient using the investigational treatment.

Subsection (j) provides that the act shall not affect any mandatory healthcare coverage for participation in clinical trials under the Kansas insurance code.

Subsection (k) names the act as the right to try for individualized treatments act.

This bill would go into effect on July 1, 2025, upon publication in the statute book.