

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2034 Session of 2007

INTRODUCED BY BEAR, McCALL, BOYD, BELFANTI, BENNINGHOFF, BRENNAN, CALTAGIRONE, COX, CREIGHTON, CUTLER, DENLINGER, EVERETT, FLECK, GEIST, GEORGE, HENNESSEY, HERSHEY, KENNEY, LONGIETTI, MAHONEY, MARSHALL, MELIO, MOYER, MURT, MUSTIO, PICKETT, RAPP, READSHAW, REICHLEY, ROAE, ROCK, SAYLOR, SCAVELLO, STERN, SWANGER, TRUE, WATSON, YOUNGBLOOD, GINGRICH, O'NEILL, SIPTROTH, PETRONE AND JAMES, NOVEMBER 15, 2007

AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 6, 2008

AN ACT

1 Providing for long-term care patient access to pharmaceuticals;
2 and conferring powers and duties on the State Board of
3 Pharmacy.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Long-Term
8 Care Patient Access to Pharmaceuticals Act.

9 Section 2. Legislative intent.

10 The General Assembly finds and declares as follows:

11 (1) A mechanism is to be provided whereby patients who
12 have the ability to acquire lower cost drugs through the
13 Veterans' Administration have access to those drugs if they
14 reside in a long-term care facility.

15 (2) The mechanism is to be provided by permitting the

1 pharmacy within the long-term care facility or which has a
2 contract with the long-term care facility to:

3 (i) receive the lower cost drugs directly from the
4 Veterans' Administration drug benefit program in the
5 patient's name; and

6 (ii) repackage and relabel those drugs so they may
7 be dispensed in unit doses in compliance with the Food
8 and Drug Administration, the United States Pharmacopeia
9 and the long-term care facility's policies and procedures
10 to patients in a long-term care facility.

11 (3) This act shall be interpreted and construed to
12 effectuate the following purposes:

13 (i) To provide for the care, protection and
14 treatment of patients in long-term care facilities by
15 allowing them to utilize the drug benefit provided by the
16 Veterans' Administration.

17 (ii) Consistent with the care, protection and
18 treatment of patients in long-term care facilities, to
19 provide a means by which a pharmacy in a long-term care
20 facility or a pharmacy which has a contract with a long-
21 term care facility may:

22 (A) accept, on behalf of the patient, drugs
23 received directly from the Veterans' Administration;
24 and

25 (B) repackage and relabel those drugs so that
26 the patient may receive them in a unit dose in
27 compliance with the Food and Drug Administration, the
28 United States Pharmacopeia and the long-term care
29 facility's policies and procedures.

30 (iii) To provide a means through which the

1 provisions of this act are executed and enforced and in
2 which long-term care facilities, pharmacists, drug source
3 facilities and pharmaceutical providers may implement the
4 provisions of this act.

5 (4) ONLY INDIVIDUALS ELIGIBLE FOR BENEFITS PROVIDED BY <—
6 THE VETERANS' ADMINISTRATION ARE ELIGIBLE FOR THE PROGRAM
7 UNDER THIS ACT.

8 Section 3. 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 "Board." The State Board of Pharmacy.

13 ~~"Drug source facility." A facility where drugs are lawfully <—
14 manufactured, dispensed or distributed. The term includes a
15 pharmacy, an entity and a Federal or State agency or
16 instrumentality.~~

17 "DRUG SOURCE FACILITY." A FACILITY: <—

18 (1) WHERE DRUGS ARE LAWFULLY MANUFACTURED, DISPENSED OR
19 DISTRIBUTED; AND

20 (2) WHICH IS:

21 (I) OPERATED BY OR UNDER CONTRACT WITH THE VETERANS'
22 ADMINISTRATION; OR

23 (II) APPROVED BY THE VETERANS' ADMINISTRATION.

24 "Long-term care facility." A long-term care nursing facility
25 as defined in section 802.1 of the act of July 19, 1979
26 (P.L.130, No.48), known as the Health Care Facilities Act.

27 "Pharmaceutical provider." An entity that employs a
28 pharmacist.

29 Section 4. State Board of Pharmacy.

30 The board has the following powers and duties:

1 (1) Develop the form required by section 5(b)(3) and
2 (4).

3 (2) Publish a notice in the Pennsylvania Bulletin that
4 the form has been developed.

5 Section 5. Third-party drugs in long-term care facilities.

6 (a) Authority.--Notwithstanding any other provision of law,
7 all of the following may dispense a drug acquired from a drug
8 source facility outside the long-term care facility to a patient
9 of a long-term care facility:

10 (1) A pharmacist employed by a long-term care facility.

11 (2) A pharmacy who contracts with a long-term care
12 facility to fill prescriptions for patients of the long-term
13 care facility.

14 (b) Unit dose.--A person authorized under subsection (a) to
15 dispense a drug shall repackage, relabel and dispense the drug
16 in a unit dose if all of the following conditions are met:

17 (1) The drug is obtained from a drug source facility.

18 (2) There is a prescription for the drug.

19 (3) The prescriber has signed a form authorizing the
20 long-term care facility to administer a drug from a drug
21 source facility outside the long-term care facility.

22 (4) The patient has signed a form authorizing the long-
23 term care facility to administer a drug from a drug source
24 facility outside the long-term care facility and provided
25 payment information for payment of the related fees to the
26 pharmacy. In the case of a minor or a patient who is unable
27 to sign the form, a parent, a guardian, an agent acting under
28 a power of attorney or a family member is authorized to sign
29 the form. The form must explain that a person authorized
30 under subsection (a) to dispense a drug from a drug source

1 facility outside the long-term care facility:

2 (i) is required to go through the process of
3 repackaging and relabeling the drug;

4 (ii) may charge a fee for repackaging and relabeling
5 the drug, including the amount of the fee and the
6 frequency of its assessment; and

7 (iii) has immunity from civil liability arising from
8 dispensation of the drug if the person properly
9 repackages and relabels the drug as set forth in section
10 8.

11 (5) The nursing facility attending physician has issued
12 an order continuing the patient's medical regime.

13 ~~(6) The drug is not a controlled substance.~~ <—

14 ~~(7)~~ (6) The repackaging is in compliance with the Food <—
15 and Drug Administration, the United States Pharmacopeia and
16 the long-term care facility's policies and procedures.

17 ~~(8)~~ (7) The Veterans' Administration provides the drug <—
18 directly to the long-term care pharmacy in the patient's name
19 and with the following information in preparation for the
20 repackaging and relabeling:

21 (i) The name and address of the dispensing pharmacy.

22 (ii) The name of the dispensing pharmacist.

23 (iii) The lot number of the drug.

24 (iv) A copy of the original prescription.

25 (v) The date the drug was dispensed.

26 (vi) Directions for use, contraindications and other
27 materials required by law to be provided to the patient.

28 Section 6. Recordkeeping.

29 For each drug dispensed in accordance with section 5(a), the
30 person authorized to dispense the drug and the long-term care

1 facility shall maintain a record for at least two years of all
2 of the items specified in section ~~5(b)(8)~~ 5(B)(7). <—

3 Section 7. Fee.

4 A person authorized under 5(a) to dispense a drug may charge
5 ~~a reasonable fee to repackage and relabel the drug. Fees so~~ <—
6 ~~charged shall not exceed:~~

7 ~~(1) \$20 for up to 90 units per drug;~~

8 ~~(2) \$10 additional for half tablets; and~~

9 ~~(3) \$10 for each additional 90 units.~~

10 NO MORE THAN THE MAXIMUM DISPENSING FEE AUTHORIZED BY THE <—
11 DEPARTMENT OF PUBLIC WELFARE REGULATIONS UNDER THE MEDICAL
12 ASSISTANCE PROGRAM.

13 Section 8. Civil liability and unprofessional conduct.

14 (a) Repackaging and relabeling.--A person authorized under
15 section 5(a) to dispense a drug shall be immune from civil
16 liability arising out of dispensation of the drug if the person
17 properly repackages and relabels a drug based on the information
18 received from the original drug source facility.

19 (b) Administration of drug.--A long-term care facility or an
20 employee or agent of a long-term care facility that properly
21 administers a drug from a person authorized under section 5(a)
22 to dispense the drug shall be immune from civil liability
23 arising out of administration of the drug.

24 (c) Unprofessional conduct.--A pharmacist authorized under
25 section 5(a) to dispense a drug who properly relabels and
26 repackages the drug shall not be deemed to have engaged in
27 unprofessional conduct under section 5 of the act of September
28 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

29 Section 40. Effective date.

30 This act shall take effect 90 days following the publication

1 of the notice in the Pennsylvania Bulletin required under
2 section 4(2).