

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1495 Session of
2008

INTRODUCED BY GREENLEAF, MUSTO, PUNT, FONTANA, M. WHITE,
BRUBAKER, COSTA, O'PAKE, WASHINGTON, WAUGH, EARLL, BOSCOLA,
WOZNIAK, ERICKSON, C. WILLIAMS AND BROWNE, JUNE 23, 2008

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JUNE 23, 2008

AN ACT

1 Amending the act of September 27, 1961 (P.L.1700, No.699),
2 entitled "An act relating to the regulation of the practice
3 of pharmacy, including the sales, use and distribution of
4 drugs and devices at retail; and amending, revising,
5 consolidating and repealing certain laws relating thereto,"
6 further providing for refusal to grant and revocation and
7 suspension of licenses; and providing for the donation of
8 unused prescription drugs.

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

11 Section 1. Section 5(a)(9) of the act of September 27, 1961
12 (P.L.1700, No.699), known as the Pharmacy Act, amended December
13 20, 1985 (P.L.433, No.111), is amended to read:

14 Section 5. Refusal to Grant, Revocation and Suspension.--(a)
15 The board shall have the power to refuse, revoke or suspend the
16 license of any pharmacist upon proof satisfactory to it that the
17 pharmacist:

18 * * *

19 (9) Is guilty of grossly unprofessional conduct. The
20 following acts on the part of a pharmacist are hereby declared

1 to constitute grossly unprofessional conduct of a pharmacist:

2 (i) Willfully deceiving or attempting to deceive the State
3 Board of Pharmacy or its agents with respect to any material
4 matter under investigation by the board;

5 (ii) Advertising of prices for drugs and pharmaceutical
6 services to the public which does not conform to Federal laws or
7 regulations;

8 (iii) The public assertion or implication of professional
9 superiority in the practice of pharmacy;

10 (iv) The engaging by any means in untrue, false, misleading
11 or deceptive advertising of drugs or devices;

12 (v) Paying rebates to physicians or any other persons, or
13 the entering into any agreement with a medical practitioner or
14 any other person for the payment or acceptance of compensation
15 in any form for the recommending of the professional services of
16 either party;

17 (vi) The entering into of any agreement with a licensed
18 medical practitioner for the compounding or dispensing of secret
19 formula (coded), prescriptions;

20 (vii) The misbranding or adulteration of any drug or device
21 and the sale, distribution or dispensing of any misbranded or
22 adulterated drug or device as defined in the act of April 14,
23 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,
24 Device and Cosmetic Act";

25 (viii) Engaging in the sale or purchase of drugs or devices
26 whose package bears the inscription "sample" or "not for
27 resale;"

28 (ix) Displaying or permitting the display of his certificate
29 of licensure and biennial registration document in a pharmacy of
30 which he is not the proprietor or in which he is not employed;

(x) Any holder of a biennial pocket registration card who fails to have the card available for inspection by an authorized agent when he is practicing;

(xi) The acceptance back and redistribution of any unused drug, or a part thereof, except as authorized under section 9.3 of this act, after it has left the premises of any pharmacy, whether issued by mistake or otherwise, unless it is in the original sealed container with the name, lot number and expiration date on the original intact manufacturer's label. The pharmacy shall maintain records of all such returns, and a full refund shall be given to the original purchaser, including a third-party payor;

(xii) To accept employment as a pharmacist, or share or receive compensation in any form arising out of, or incidental to, his professional activities from any medical practitioner or any other person or corporation in which one or more medical practitioners have a proprietary or beneficial interest sufficient to permit them to exercise supervision or control over the pharmacist in his professional responsibilities and duties;

(xiii) To accept employment as a pharmacist, or share or receive compensation in any form arising out of, or incidental to, his professional activities from any person who orders said pharmacist, directly or indirectly, to engage in any aspect of the practice of pharmacy in contravention of any provision of this act.

* * *

Section 2. The act is amended by adding a section to read:

Section 9.3. Donation of Unused Prescription Drugs.--(a) The Department of Health, the board and the Health Care Cost

1 Containment Council shall jointly develop and implement a pilot
2 program consistent with public health and safety through which
3 unused prescription drugs, other than drugs that are controlled
4 dangerous substances, may be transferred from nursing facilities
5 to pharmacies operated by the Commonwealth for the purpose of
6 distributing the prescription drugs to residents who are
7 medically indigent.

8 (b) The Department of Health, the board, the Health Care
9 Cost Containment Council, the State Board of Medicine and the
10 State Board of Osteopathic Medicine shall review and evaluate
11 the program no later than eighteen months after its
12 implementation and shall submit a report and any recommendations
13 to the Governor, the President pro tempore of the Senate, the
14 Speaker of the House of Representatives and the chairmen of the
15 appropriate legislative committees.

16 (c) The Department of Health, the board and the Health Care
17 Cost Containment Council shall promulgate rules and establish
18 procedures necessary to implement the program established by
19 this section. The rules and procedures shall provide:

20 (1) For a formulary for the medications to be distributed
21 pursuant to the program.

22 (2) For the protection of the privacy of the individual for
23 whom the medication was originally prescribed.

24 (3) For the integrity and safe storage and safe transfer of
25 the medication, which may include, but shall not be limited to,
26 limiting the drugs made available through the program to those
27 that were originally dispensed by unit dose or an individually
28 sealed dose or which remain in intact packaging.

29 (4) For the tracking of and accountability for the
30 medications.

1 (5) For other matters necessary for the implementation of
2 the program.

3 (d) In accordance with the rules and procedures of a program
4 established pursuant to this section, the resident of a nursing
5 facility or the representative or guardian of a resident may
6 donate unused prescription drugs, other than prescription drugs
7 that are controlled dangerous substances, for dispensation to
8 residents who are medically indigent.

9 (e) No physician, pharmacist and other health care
10 professional shall be subject to liability for participation in
11 the program established by this section when acting within the
12 scope of practice of his license and in good faith compliance
13 with the rules promulgated pursuant to this section.

14 (f) For purposes of this section, "persons who are medically
15 indigent" means persons who have no health insurance or who
16 otherwise lack reasonable means to purchase prescribed
17 medications.

18 Section 3. This act shall take effect in 60 days.