
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1224 Session of
2014

INTRODUCED BY VANCE, PILEGGI, BAKER, SOLOBAY, TOMLINSON,
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VULAKOVICH, SMITH, HUGHES, McILHINNEY, MENSCH, BREWSTER,
KASUNIC AND BRUBAKER, JANUARY 17, 2014

REFERRED TO VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS,
JANUARY 17, 2014

AN ACT

1 Amending Title 51 (Military Affairs) of the Pennsylvania
2 Consolidated Statutes, in long-term care patient access to
3 pharmaceuticals, further providing for assisted living
4 residence and personal care home.

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

7 Section 1. Sections 9502, 9503, 9505, 9506, 9507 and 9508 of
8 Title 51 of the Pennsylvania Consolidated Statutes are amended
9 to read:

10 § 9502. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) A mechanism is to be provided through which patients
13 who have the ability to acquire lower cost drugs through the
14 United States Department of Veterans Affairs have access to
15 those drugs if they reside in a long-term care facility,
16 assisted living residence or personal care home.

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

1 pharmacy within the long-term care facility, assisted living
2 residence or personal care home, or which has a contract with
3 the [long-term care facility] entity to:

4 (i) receive the lower cost drugs directly from the
5 United States Department of Veterans Affairs drug benefit
6 program in the patient's name; and

7 (ii) repackage and relabel those drugs so they may
8 be dispensed in unit doses to patients in a long-term
9 care facility, assisted living residence or personal care
10 home in compliance with the Food and Drug Administration,
11 the United States Pharmacopeia and the [long-term care
12 facility's] policies and procedures of the long-term care
13 facility, assisted living residence or personal care
14 home.

15 (3) This chapter shall be interpreted and construed to
16 effectuate the following purposes:

17 (i) To provide for the care, protection and
18 treatment of patients in long-term care facilities, assisted living residences and personal care homes,
19 assisted living residences and personal care homes by
20 allowing them to utilize the drug benefit provided by the
21 United States Department of Veterans Affairs.

22 (ii) Consistent with the care, protection and
23 treatment of patients in long-term care facilities,
24 assisted living residences and personal care homes, to
25 provide a means by which a pharmacy, within [the long-
26 term care facility] these settings or that has a contract
27 with the [long-term care facility] entities listed, may:

28 (A) accept, on behalf of the patient, drugs
29 received directly from the United States Department
30 of Veterans Affairs; and

1 (B) repackage and relabel those drugs so that
2 the patient may receive them in a unit dose in
3 compliance with the Food and Drug Administration, the
4 United States Pharmacopeia and the [long-term care
5 facility's] policies and procedures of the long-term
6 care facility, assisted living residence or personal
7 care home.

8 (iii) To provide a means through which this chapter
9 is executed and enforced and in which long-term care
10 facilities, assisted living residences, personal care
11 homes, pharmacists, drug source facilities and
12 pharmaceutical providers may implement this chapter.

13 (4) Only individuals eligible for benefits provided by
14 the United States Department of Veterans Affairs are eligible
15 for the program under this chapter.

16 § 9503. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Assisted living residence." As defined in section 1001 of
21 the act of June 13, 1967 (P.L.31, No.21), known as the Public
22 Welfare Code.

23 "Board." The State Board of Pharmacy.

24 "Drug source facility." A facility:

25 (1) where drugs are lawfully manufactured, dispensed or
26 distributed; and

27 (2) which is:

28 (i) operated by or under contract with the United
29 States Department of Veterans Affairs; or

30 (ii) approved by the United States Department of

Veterans Affairs.

"Lockbox." A cabinet, safe, container or other structure to contain medications that shall be securely locked, substantially constructed and accessible only to the pharmacist or his representative as authorized by the regulations of the State Board of Pharmacy.

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

"Means." The placement of a lockbox at a location at [the] a long-term care facility, assisted living residence or personal care home.

"Personal care home." As defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

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

§ 9505. Third-party drugs in long-term care facilities, assisted living residences and personal care homes.

(a) Authority.--Notwithstanding any other provision of law, all of the following may dispense a drug acquired from a drug source facility outside the long-term care facility, assisted living residence or personal care home to a patient of a long-term care facility, assisted living residence or personal care home:

(1) A pharmacist employed by a long-term care facility, assisted living residence or personal care home.

(2) A pharmacy that contracts with a long-term care facility, assisted living residence or personal care home to fill prescriptions for patients [of the long-term care

1 facility] residing in these settings.

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

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

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

7 (3) The prescriber has signed a form authorizing the
8 long-term care facility, assisted living residence or
9 personal care home to administer a drug from a drug source
10 facility outside the long-term care facility, assisted living
11 residence or personal care home.

12 (4) The patient has signed a form authorizing the long-
13 term care facility, assisted living residence or personal
14 care home to administer a drug from a drug source facility
15 outside the [long-term care facility] location and provided
16 payment information for payment of the related fees to the
17 pharmacy. In the case of a minor or a patient who is unable
18 to sign the form, a parent, a guardian, an agent acting under
19 a power of attorney or a family member is authorized to sign
20 the form. The form must explain that a person authorized
21 under subsection (a) to dispense a drug from a drug source
22 facility outside the long-term care facility, assisted living
23 residence or personal care home:

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

26 (ii) may charge a fee for repackaging and relabeling
27 the drug, including the amount of the fee and the
28 frequency of its assessment; and

29 (iii) has immunity from civil liability arising from
30 dispensation of the drug if the person properly

1 repackages and relabels the drug as set forth in section
2 9508 (relating to civil liability and unprofessional
3 conduct).

4 (5) The [nursing facility] attending physician or other
5 provider prescribing medications for the patient within their
6 scope of practice has issued an order continuing the
7 patient's medical regime.

8 (6) The repackaging is in compliance with the Food and
9 Drug Administration, the United States Pharmacopeia and the
10 [long-term care facility's] policies and procedures of the
11 long-term care facility, assisted living residence or
12 personal care home.

13 (7) The United States Department of Veterans Affairs
14 provides the drug directly to the pharmacy in the long-term
15 care facility, assisted living residence or personal care
16 home in the patient's name or by mailing it to a lockbox
17 located at the long-term care facility, assisted living
18 residence or personal care home in the patient's name and
19 with the following information in preparation for the
20 repackaging and relabeling:

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

22 (ii) (Reserved).

23 (iii) (Reserved).

24 (iv) A copy of the original prescription upon
25 request.

26 (v) The date the drug was dispensed.

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

29 (7.1) A pharmacist must be held responsible for his
30 activity or activity performed under his supervision or

1 authorization.

2 (8) The pharmacist manager of the pharmacy, within the
3 long-term care facility, assisted living residence or
4 personal care home or that has a contract with the long-term
5 care facility, assisted living residence or personal care
6 home responsible for access to the lockbox shall be
7 responsible for the following:

8 (i) Reviewing and approving written policies and
9 procedures for lockbox operation, safety, security,
10 accuracy, access and patient confidentiality.

11 (ii) Ensuring that medications received at the
12 lockbox are inspected for expiration date, misbranding
13 and physical integrity and ensuring that the lockbox is
14 inspected for security and accountability every month.

15 (iii) Inspecting medications received at the lockbox
16 to determine if:

17 (A) the original contents have deteriorated
18 significantly due to heat, cold fermentation or
19 prolonged agitation; or

20 (B) the sensors indicate the integrity of the
21 drug was compromised if the drugs were shipped in a
22 manner that would preserve the integrity of the drug,
23 such as cold packs or other temperature control
24 devices.

25 (iv) Assigning, discontinuing or changing authorized
26 personnel access to the lockbox.

27 (v) Ensuring that an accountability record is
28 maintained in accordance with the written policies and
29 procedures of operation.

30 (vi) Ensuring compliance with the applicable

1 provisions of Federal and State law.

2 § 9506. Recordkeeping.

3 For each drug dispensed in accordance with section 9505(a)
4 (relating to third-party drugs in long-term care facilities, assisted living residences and personal care homes), the person
5 authorized to dispense the drug and the long-term care facility, assisted living residence or personal care home shall maintain a
6 record for at least two years of all of the items specified in
7 section 9505(b) (7) .

10 § 9507. Fee.

11 A person authorized under section 9505(a) (relating to third-
12 party drugs in long-term care facilities, assisted living
13 residences and personal care homes) to dispense a drug may
14 charge no more than the maximum dispensing fee authorized by the
15 Department of Public Welfare regulations under the medical
16 assistance program.

17 § 9508. Civil liability and unprofessional conduct.

18 (a) Repackaging and relabeling.--A person authorized under
19 section 9505(a) (relating to third-party drugs in long-term care
20 facilities, assisted living residences and personal care homes)
21 to dispense a drug shall be immune from civil liability arising
22 out of dispensation of the drug if the person properly
23 repackages and relabels a drug based on the information received
24 from the original drug source facility.

25 (b) Administration of drug.--A long-term care facility, assisted living residence or personal care home or an employee
26 or agent of a long-term care facility, assisted living residence
27 or personal care home that properly administers a drug from a
28 person authorized under section 9505(a) to dispense the drug
29 shall be immune from civil liability arising out of
30

1 administration of the drug.

2 (c) Unprofessional conduct.--A pharmacist authorized under
3 section 9505(a) to dispense a drug who properly relabels and
4 repackages the drug shall not be deemed to have engaged in
5 unprofessional conduct under section 5(9) of the act of
6 September 27, 1961 (P.L.1700, No.699), known as the Pharmacy
7 Act.

8 Section 2. This act shall take effect in 60 days.