

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**

**No. 304**      Session of  
2003

INTRODUCED BY MAITLAND, NICKOL, FLEAGLE, R. MILLER, ADOLPH, BAKER, CAPPELLI, CAUSER, CORRIGAN, CREIGHTON, CURRY, DeWEESE, EGOLF, FRANKEL, GEORGE, GINGRICH, HARHAI, HARRIS, HORSEY, MACKERETH, MAHER, McILHATTAN, MUNDY, PICKETT, ROSS, RUBLEY, SATHER, SCRIMENTI, SEMMEL, B. SMITH, SOLOBAY, TANGRETTI, E. Z. TAYLOR, THOMAS, TIGUE, VANCE, YOUNGBLOOD, MYERS, JAMES, HARPER AND WASHINGTON, FEBRUARY 18, 2003

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,  
FEBRUARY 18, 2003

AN ACT

1 Amending the act of December 20, 1985 (P.L.457, No.112),  
2 entitled "An act relating to the right to practice medicine  
3 and surgery and the right to practice medically related acts;  
4 reestablishing the State Board of Medical Education and  
5 Licensure as the State Board of Medicine and providing for  
6 its composition, powers and duties; providing for the  
7 issuance of licenses and certificates and the suspension and  
8 revocation of licenses and certificates; providing penalties;  
9 and making repeals," defining "home health care agency"; and  
10 providing for home health care services ordered by physicians  
11 from another state.

12 The General Assembly finds and declares as follows:

13       (1) Home health care agencies are widely accepted by the  
14 general public because they allow people to age in place,  
15 maintain their independence and exercise decision making and  
16 personal choice.

17       (2) Pennsylvanians have the right to seek out the  
18 medical care they feel is most appropriate to meet their  
19 needs.

1           (3) Nationally, 72% of home health care recipients on  
2 average are elderly. Pennsylvania has the second oldest  
3 population in the nation, and it is expected to grow from 16%  
4 to 25% over the next 20 years.

5           (4) Pennsylvania's home health care agencies provided  
6 care directly in the homes of nearly 500,000 Pennsylvania  
7 residents in 1999 alone.

8           (5) It is expected that the need for home health care  
9 services by Pennsylvania residents will continue to  
10 dramatically increase in the coming years.

11           (6) An increasing number of Pennsylvanians have been  
12 denied access to home health care because their out-of-State  
13 physicians are not authorized to write home health care  
14 orders to be administered inside Pennsylvania.

15           (7) Out-of-State physicians choose not to be licensed in  
16 Pennsylvania due to skyrocketing costs for medical  
17 malpractice insurance. Home health care agencies are required  
18 to accept orders from only licensed Pennsylvania physicians  
19 who must assume liability when signing orders written by out-  
20 of-State physicians. Pennsylvania citizens are denied needed  
21 access to home health care services because of statutory and  
22 regulatory constraints.

23           (8) It is in the best interest of all Pennsylvanians  
24 that the Commonwealth allow duly licensed out-of-State  
25 physicians to order home health care services to be delivered  
26 by licensed Pennsylvania agencies in the Commonwealth.

27           The General Assembly of the Commonwealth of Pennsylvania  
28 hereby enacts as follows:

29           Section 1. Section 2 of the act of December 20, 1985  
30 (P.L.457, No.112), known as the Medical Practice Act of 1985, is

1 amended by adding a definition to read:

2 Section 2. Definitions.

3 The following words and phrases when used in this act shall  
4 have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 \* \* \*

7 Home health care agency." An organization or part thereof,  
8 licensed by the Department of Health under the act of July 19,  
9 1979 (P.L.130, No.48), known as the Health Care Facilities Act,  
10 staffed and equipped to provide nursing and at least one  
11 therapeutic service to persons who are disabled, aged, injured  
12 or sick in their place of residence. The agency may also provide  
13 other health-related services to protect and maintain persons in  
14 their own home.

15 \* \* \*

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

17 Section 36.2. Home health care services ordered by physicians  
18 from another state.

19 (a) General rule.--A physician from another state shall be  
20 authorized to order home care services to be delivered by a  
21 licensed home health agency if the physician shows, upon request  
22 by the board, or the home health agency that will deliver the  
23 home care services shows that the physician:

24 (1) Holds a license in good standing conferred by the  
25 medical board or other medical licensing authority in another  
26 state, as shown by a photocopy or facsimile of their valid  
27 license submitted to the home health care agencies.

28 (2) Conducts 50% or less of the physician's health care  
29 practice within this Commonwealth.

30 (3) Prescribed home health care services pursuant to an

1 in-person physical examination of the patient.

2 (b) Duties of referring physician from another state.--A  
3 referring physician from another state shall ask the patient if  
4 the patient has a primary care physician in this Commonwealth.  
5 If so, the referring physician shall contact the primary care  
6 physician and obtain the concurrence of that individual for  
7 ordering home health care services. The referring physician  
8 shall make a notation of such contact in the patient's medical  
9 record.

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