

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 8, 2004

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 SERVICES <—
2 recipients on average are elderly. Pennsylvania has the
3 second oldest population in the nation, ~~and it is expected~~ <—
4 WHICH IS PROJECTED to grow from 16% to 25% over the next 20 <—
5 years.

6 (4) Pennsylvania's home health care agencies provided
7 ~~care directly~~ DIRECT SERVICES in the homes of nearly 500,000 <—
8 Pennsylvania residents in 1999 alone.

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

12 (6) ~~An increasing number of~~ SOME Pennsylvanians have <—
13 been denied access to home health care SERVICES because their <—
14 out-of-State physicians are not authorized to write ORDERS <—
15 FOR THE DELIVERY OF home health care ~~orders to be~~ <—
16 ~~administered inside Pennsylvania.~~

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

25 ~~(8)~~ (7) It is in the best interest of all Pennsylvanians <—
26 that the Commonwealth allow duly licensed out-of-State
27 physicians to order home health care services to be delivered
28 by licensed Pennsylvania agencies in the Commonwealth.

29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 Section 1. Section 2 of the act of December 20, 1985
2 (P.L.457, No.112), known as the Medical Practice Act of 1985, is
3 amended by adding a definition to read:

4 Section 2. Definitions.

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

8 * * *

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

17 * * *

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

19 ~~Section 36.2. Home health care services ordered by physicians~~ <—
20 ~~from another state.~~

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

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

30 ~~(2) Conducts 50% or less of the physician's health care~~

~~practice within this Commonwealth.~~

~~(3) Prescribed home health care services pursuant to an
in person physical examination of the patient.~~

SECTION 36.2. HOME HEALTH CARE SERVICES ORDERED BY PHYSICIANS. <—

(A) GENERAL RULE.--A HOME HEALTH CARE AGENCY MAY DELIVER
HOME HEALTH CARE SERVICES TO A PATIENT WHO RESIDES IN THIS
COMMONWEALTH BASED UPON AN ORDER FROM A PHYSICIAN FROM ANOTHER
STATE WHO MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(1) HOLDS A LICENSE IN GOOD STANDING CONFERRED BY THE
MEDICAL BOARD OR OTHER MEDICAL LICENSING AUTHORITY IN ANOTHER
STATE, AS SHOWN BY A PHOTOCOPY OR FACSIMILE OF THE
PHYSICIAN'S VALID LICENSE SUBMITTED TO THE HOME HEALTH CARE
AGENCY, AND AVAILABLE UPON REQUEST BY THE BOARD OR THE
DEPARTMENT.

(2) PRESCRIBES HOME HEALTH CARE SERVICES PURSUANT TO AN
IN-PERSON PHYSICAL EXAMINATION OF THE PATIENT PERFORMED
WITHIN THE JURISDICTIONAL BOUNDARIES OF THE STATE IN WHICH
THE PHYSICIAN IS LICENSED.

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

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