
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 778 Session of
2007

INTRODUCED BY ARMSTRONG, ORIE, RAFFERTY, FERLO, COSTA, EARLL,
RHOADES, WAUGH, MADIGAN, STOUT, WONDERLING AND STACK,
APRIL 27, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, APRIL 27, 2007

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

18 (i) receive the lower cost drugs directly from the

1 Veterans' Administration drug benefit program in the
2 patient's name; and

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

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

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

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

19 (A) accept, on behalf of the patient, drugs
20 received directly from the Veterans' Administration;
21 and

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

27 (iii) To provide a means through which the
28 provisions of this act are executed and enforced and in
29 which long-term care facilities, pharmacists, drug source
30 facilities and pharmaceutical providers may implement the

1 provisions of this act.

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

7 "Drug source facility." A facility where drugs are lawfully
8 manufactured, dispensed or distributed. The term includes a
9 pharmacy, an entity and a Federal or State agency or
10 instrumentality.

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

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

16 Section 4. State Board of Pharmacy.

17 The board has the following powers and duties:

18 (1) Develop the form required by section 5(b)(3) and
19 (4).

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

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

23 (a) Authority.--Notwithstanding any other provision of law,
24 all of the following may dispense a drug acquired from a drug
25 source facility outside the long-term care facility to a patient
26 of a long-term care facility:

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

28 (2) A pharmacy who contracts with a long-term care
29 facility to fill prescriptions for patients of the long-term
30 care facility.

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

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

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

6 (3) The prescriber has signed a form authorizing the
7 long-term care facility to administer a drug from a drug
8 source facility outside the long-term care facility.

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

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

21 (ii) may charge a fee for repackaging and relabeling
22 the drug, including the amount of the fee and the
23 frequency of its assessment; and

24 (iii) has immunity from civil liability arising from
25 dispensation of the drug if the person properly
26 repackages and relabels the drug as set forth in section
27 8.

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

30 (6) The drug is not a controlled substance.

1 (7) The repackaging is in compliance with the Food and
2 Drug Administration, the United States Pharmacopeia and the
3 long-term care facility's policies and procedures.

4 (8) The Veterans' Administration provides the drug
5 directly to the long-term care pharmacy in the patient's name
6 and with the following information in preparation for the
7 repackaging and relabeling:

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

9 (ii) The name of the dispensing pharmacist.

10 (iii) The lot number of the drug.

11 (iv) A copy of the original prescription.

12 (v) The date the drug was dispensed.

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

15 Section 6. Recordkeeping.

16 For each drug dispensed in accordance with section 5(a), the
17 person authorized to dispense the drug and the long-term care
18 facility shall maintain a record for at least two years of all
19 of the items specified in section 5(b)(8).

20 Section 7. Fee.

21 A person authorized under 5(a) to dispense a drug may charge
22 a reasonable fee to repackage and relabel the drug. Fees so
23 charged shall not exceed:

24 (1) \$20 for up to 90 units per drug;

25 (2) \$10 additional for half tablets; and

26 (3) \$10 for each additional 90 units.

27 Section 8. Civil liability and unprofessional conduct.

28 (a) Repackaging and relabeling.--A person authorized under
29 section 5(a) to dispense a drug shall be immune from civil
30 liability arising out of dispensation of the drug if the person

1 properly repackages and relabels a drug based on the information
2 received from the original drug source facility.

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

8 (c) Unprofessional conduct.--A pharmacist authorized under
9 section 5(a) to dispense a drug who properly relabels and
10 repackages the drug shall not be deemed to have engaged in
11 unprofessional conduct under section 5 of the act of September
12 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

13 Section 40. Effective date.

14 This act shall take effect 90 days following the publication
15 of the notice in the Pennsylvania Bulletin required under
16 section 4(2).