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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1338 Session of 2017

INTRODUCED BY PASHINSKI, BOBACK, READSHAW, MILLARD, ROZZI, FLYNN, DeLUCA, MADDEN, HARKINS, DAWKINS, VAZQUEZ AND KORTZ, MAY 5, 2017

REFERRED TO COMMITTEE ON HEALTH, MAY 5, 2017

AN ACT

Providing for the return and redistribution of prescription drugs, medical devices and medical supplies; and imposing duties on the Department of Health and the Department of Human Services.

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

CHAPTER 1

GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Prescription Drug, Medical Device and Medical Supply Return and Redistribution Act.

Section 102. Definitions.

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

"Drug." As defined in section 2(3) of the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

"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.

"Medical assistance program." The Commonwealth's medical assistance program as authorized under Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

"Medical device." As the term "device" is defined in section

2(5) of the Pharmacy Act.

"Pharmacist." As defined in section 2(10) of the Pharmacy Act.

"Pharmacy." As defined in section 2(12) of the Pharmacy Act, except that the term shall include only a place that provides pharmacy services to a long-term care facility on behalf of patients who are recipients under the medical assistance program in the fee-for-service delivery system.

CHAPTER 3

RETURN AND REDISTRIBUTION PROGRAM

Section 301. Acceptance of returned prescription drug, device or supply.

(a) Authority.--A pharmacy that contracts with a long-term care nursing facility to provide pharmacy services for patients of the facility who are recipients under the medical assistance program shall accept prescription drugs, medical devices and medical supplies that are returned by the facility on behalf of the patients as provided in this act.

(b) Conditions for acceptance.--A pharmacy shall accept a prescription drug, medical device or medical supply that is returned under this act only if the prescription drug, medical device or medical supply has remained sealed, unopened or otherwise unused to ensure that it has not been tampered with, altered or compromised.

Section 302. Reasons to return prescription drug, device or supply.

A prescription drug, medical device or medical supply may be returned under this act if a patient:

(1) has died;

(2) requires a different prescription drug, medical

device or medical supply;

(3) requires a change in the usage, strength or form of the prescription drug, medical device or medical supply;

(4) no longer requires the prescription drug, medical device or medical supply; or

(5) meets a condition or qualification that requires the return of the prescription drug, medical device or medical supply, as determined by the Department of Health.

Section 303. Restocking of returned prescription drug, device or supply.

(a) Authority.--A pharmacy may restock a prescription drug, medical device or medical supply that is returned under this act, which may be used to fill a future prescription order.

(b) Duty of pharmacist.--

(1) Before a pharmacist may restock a returned prescription drug, medical device or medical supply, the pharmacist shall:

(i) Determine that the prescription drug, medical device or medical supply has not been tampered with, altered or compromised.

(ii) Comply with section 5(a)(9)(xi) of the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

(iii) Comply with 49 Pa. Code § 27.102 (relating to return to stock of undelivered medication - statement of policy).

(2) If the pharmacist cannot fulfill the duties under paragraph (1), the pharmacist may not restock or dispense the the returned prescription drug, medical device or medical supply.

Section 304. Payment to medical assistance program.

(a) Return of payment.--A pharmacy that accepts and restocks a returned prescription drug, medical device or medical supply shall return the payment for the returned prescription drug, medical device or medical supply that was previously billed to the medical assistance program.

(b) Claim adjustment.--A pharmacy shall submit a claim adjustment to the medical assistance program to ensure proper credit for the returned prescription drug, medical device or medical supply.

Section 305. Restocking fee prohibited.

A pharmacy may not charge a restocking fee for the returned prescription drug, medical device or medical supply.

Section 306. Subsequent billing to medical assistance program.

If a pharmacy has properly performed a claim adjustment under section 304(b), the pharmacy may bill the medical assistance program when the returned prescription drug, medical device or medical supply is used to fill a future prescription order for a patient of a long-term care nursing facility who is a recipient under the medical assistance program.

CHAPTER 5

ADMINISTRATIVE PROCEDURES

Section 501. Identifying information.

A pharmacist and a long-term care nursing facility shall take all necessary steps to ensure that no identifying information regarding a prescription drug, medical device or medical supply is made available to the Department of Human Services, the Department of Health or the public as a result of complying with the reporting obligations under this act.

Section 502. Collection of information.

(a) Pharmacy.--A pharmacy shall provide the following information to the Department of Human Services:

(1) The name, address, telephone number and other contact information of the pharmacy.

(2) The name, address, telephone number and other contact information of each long-term care nursing facility with which the pharmacy contracts to provide pharmacy services.

(3) The number and nature of prescription drugs, medical devices and medical supplies provided by the pharmacy to each long-term care nursing facility with which the pharmacy contracts to provide pharmacy services.

(4) The number and nature of prescription drugs, medical devices and medical supplies returned to the pharmacy by each long-term care nursing facility with which the pharmacy contracts to provide pharmacy services.

(5) The amount of money billed to the medical assistance program for the prescription drugs, medical devices and medical supplies distributed by the pharmacy to each long-term care nursing facility with which the pharmacy contracts to provide pharmacy services.

(6) The amount of money that represents the value of the prescription drugs, medical devices and medical supplies returned to the pharmacy by each long-term care nursing facility with which the pharmacy contracts to provide pharmacy services.

(b) Facility.--A long-term care nursing facility shall provide the following information to the Department of Human Services:

(1) The name, address, telephone number and other

contact information of the long-term care nursing facility.

(2) The name, address, telephone number and other contact information of each pharmacy with which the facility contracts to provide pharmacy services.

(3) The number and nature of prescription drugs, medical devices and medical supplies provided to the facility by each pharmacy with which the facility contracts to provide pharmacy services.

(4) The number and nature of prescription drugs, medical devices and medical supplies returned by the facility to each pharmacy with which the facility contracts to provide pharmacy services.

(c) Submittal of information.--The information under subsections (a) and (b) shall be provided to the Department of Human Services on an annual basis on or before January 31. The annual submittal shall contain data for the immediately preceding calendar year.

Section 503. Reports.

(a) Submittal.--The Department of Human Services shall use the information submitted under section 502 to prepare and submit a report on an annual basis to the General Assembly on or before May 31.

(b) Contents.--A report under this section shall contain:

(1) The total number of participating pharmacies and long-term care nursing facilities.

(2) The total number and nature of prescription drugs, medical devices and medical supplies returned to pharmacies under this act.

(3) The total amount of money saved annually as a result of the implementation of this act.

(4) Specific information submitted under section 502, as determined by the Department of Human Services.

(5) Any other information deemed relevant and necessary, as determined by the Department of Human Services.

Section 504. Regulations.

(a) Department of Human Services.--The Department of Human Services, in consultation with the Department of Health, shall promulgate regulations to implement the provisions of this act.

(b) Department of Health.--The Department of Health shall promulgate regulations regarding the packaging and identification of returned prescription drugs, medical devices and medical supplies to most efficiently eliminate waste and improve safety.

Section 505. Additional study.

(a) Scope.--The Department of Human Services and the Department of Health shall study the implementation of the provisions of this act by personal care homes and assisted living residences, as those terms are defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

(b) Report.--Within six months after the first report is provided under section 503, the Department of Human Services and the Department of Health shall provide a report to the General Assembly containing findings and recommendations regarding the study under this section.

CHAPTER 7

(RESERVED)

CHAPTER 9

MISCELLANEOUS PROVISIONS

Section 901. Effective date.

This act shall take effect in 60 days.