
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1338 Session of
2017

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MAY 5, 2017

REFERRED TO COMMITTEE ON HEALTH, MAY 5, 2017

AN ACT

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

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

12 CHAPTER 1

13 GENERAL PROVISIONS

14 Section 101. Short title.

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

18 Section 102. Definitions.

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

22 "Drug." As defined in section 2(3) of the act of September
23 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

24 "Long-term care nursing facility." As defined in section
25 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the
26 Health Care Facilities Act.

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

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

1 2(5) of the Pharmacy Act.

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

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

9 CHAPTER 3

10 RETURN AND REDISTRIBUTION PROGRAM

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

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

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

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

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

29 (1) has died;

30 (2) requires a different prescription drug, medical

1 device or medical supply;

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

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

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

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

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

14 (b) Duty of pharmacist.--

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

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

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

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

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

1 Section 304. Payment to medical assistance program.

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

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

11 Section 305. Restocking fee prohibited.

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

14 Section 306. Subsequent billing to medical assistance program.

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

21 CHAPTER 5

22 ADMINISTRATIVE PROCEDURES

23 Section 501. Identifying information.

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

30 Section 502. Collection of information.

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

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

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

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

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

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

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

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

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

1 contact information of the long-term care nursing facility.

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

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

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

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

18 Section 503. Reports.

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

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

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

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

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

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

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

5 Section 504. Regulations.

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

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

14 Section 505. Additional study.

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

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

26 CHAPTER 7

27 (RESERVED)

28 CHAPTER 9

29 MISCELLANEOUS PROVISIONS

30 Section 901. Effective date.

1 This act shall take effect in 60 days.