

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1822 Session of 2013

INTRODUCED BY KAUFFMAN, MILLARD, RAPP, CALTAGIRONE, SWANGER, KORTZ, COHEN, LUCAS, KOTIK, BARRAR, ROCK, R. MILLER, DAVIS, DENLINGER, FARRY, MILNE, KNOWLES, SCHLOSSBERG, GINGRICH, SABATINA, SONNEY, GIBBONS, WATSON, GALLOWAY, SANTARSIERO, AUMENT, MARSHALL, MASSER AND JAMES, NOVEMBER 6, 2013

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 4, 2014

AN ACT

1 Amending the act of September 27, 1961 (P.L.1700, No.699),
2 entitled "An act relating to the regulation of the practice
3 of pharmacy, including the sales, use and distribution of
4 drugs and devices at retail; and amending, revising,
5 consolidating and repealing certain laws relating thereto,"
6 providing for nonresident pharmacies.

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

9 Section 1. Section 2 of the act of September 27, 1961
10 (P.L.1700, No.699), known as the Pharmacy Act, is amended by
11 adding a clause to read:

12 Section 2. Definitions.--As used in this act:

13 * * *

14 (19) "Nonresident pharmacy" means any pharmacy located
15 outside this Commonwealth which ships, mails or delivers, in any
16 manner, legend devices or legend drugs into this Commonwealth
17 pursuant to a prescription order.

18 SECTION 2. SECTION 4 OF THE ACT IS AMENDED BY ADDING A

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1 SUBSECTION TO READ:

2 SECTION 4. PERMIT TO CONDUCT A PHARMACY.--* * *

3 (K) EVERY PHARMACY THAT IS ALSO LICENSED, PERMITTED OR
4 REGISTERED BY THE PROPER LICENSING AUTHORITY OF ANOTHER STATE TO
5 SHIP, MAIL OR DELIVER LEGEND DEVICES OR LEGEND DRUGS TO PATIENTS
6 IN THAT STATE SHALL REPORT THIS INFORMATION TO THE BOARD ON THE
7 BIENNIAL REGISTRATION. ANY DISCIPLINARY ACTION TAKEN IN OTHER
8 STATES SHALL BE REPORTED TO THE BOARD WITHIN THIRTY DAYS OF
9 FINAL DISPOSITION. A NONRESIDENT LICENSE, PERMIT OR REGISTRATION
10 SHALL BE NOTED BY THE BOARD ON THE PHARMACY'S RECORD, AND THE
11 STATE SHALL BE NOTIFIED BY THE BOARD OF ANY DISCIPLINARY ACTION
12 TAKEN AGAINST THE PHARMACY IN THIS COMMONWEALTH.

13 Section ~~2~~ 3. The act is amended by adding a section to read: <--

14 Section 4.1. Nonresident Pharmacies.--(a) A nonresident
15 pharmacy shall register ON A BIENNIAL BASIS with the board and <--
16 obtain a certificate of registration to conduct a pharmacy in
17 accordance with this section. The nonresident pharmacy shall:

18 (1) ~~Disclose annually in a report to the board~~ ON THE <--
19 INITIAL AND RENEWAL REGISTRATION APPLICATIONS the location,
20 names and titles of all principal corporate officers, if
21 applicable, and ~~all pharmacists that are dispensing drugs or~~ <--
22 ~~devices to residents of this Commonwealth~~ THE PHARMACIST IN <--
23 CHARGE. A nonresident pharmacy shall ~~file an additional~~ report <--
24 TO THE BOARD within thirty days after any change of ~~office,~~ <--
25 ~~corporate officer or pharmacist~~ LOCATION OR PHARMACIST IN <--
26 CHARGE.

27 (2) Submit a statement that the nonresident pharmacy
28 complies with all lawful directions and requests for information
29 from the regulatory or licensing agency of the state in which it
30 is licensed as well as complies with all requests for

1 information made by the board pursuant to this section.

2 (3) Maintain at all times, a valid unexpired license, permit
3 or registration to conduct the pharmacy in compliance with the
4 laws of the state in which the nonresident pharmacy is located.

5 (4) Before receiving a certificate of registration from the
6 board, submit a copy of the most recent inspection report
7 resulting from an inspection conducted by the regulatory or
8 licensing agency of the state in which the nonresident pharmacy
9 is located OR BY THE NATIONAL ASSOCIATION OF BOARDS OF <--
10 PHARMACY'S VERIFIED PHARMACY PROGRAM.

11 (b) A nonresident pharmacy shall, during its regular hours
12 of operation, but not less than six days per week, and for a
13 minimum of forty hours per week, provide a toll-free telephone
14 number to facilitate communication between patients in this
15 Commonwealth and a pharmacist at the nonresident pharmacy WHO IS <--
16 LICENSED IN THIS COMMONWEALTH OR IN THE STATE IN WHICH THE
17 NONRESIDENT PHARMACY IS LOCATED AND who has access to the
18 patient's records. The toll-free telephone number shall be
19 disclosed on a label affixed to each container of drugs
20 dispensed to patients in this Commonwealth.

21 (C) A NONRESIDENT PHARMACY SHALL REPORT TO THE BOARD WITHIN <--
22 THIRTY DAYS OF FINAL DISPOSITION ANY DISCIPLINARY ACTION TAKEN
23 BY THE REGULATORY OR LICENSING AGENCY OF THE STATE IN WHICH THE
24 NONRESIDENT PHARMACY IS LOCATED.

25 ~~(e)~~ (D) A nonresident pharmacy may not engage in the <--
26 business of shipping, mailing or delivering legend devices or
27 legend drugs in this Commonwealth unless the nonresident
28 pharmacy has been issued a certificate of registration by the
29 board and has paid the fee established by the board by
30 regulation for issuance or renewal of the certificate of

1 registration. Applications for a certificate of registration OR <--
2 RENEWAL as a nonresident pharmacy shall be made on a form
3 furnished by the board. The board may require the information it
4 deems reasonably necessary to carry out the purpose of this
5 section.

6 ~~(d)~~ (E) The board may deny, revoke or suspend any <--
7 certificate of registration as a nonresident pharmacy for
8 failure to comply with any requirement of this section.

9 ~~(e)~~ (F) The board may deny, revoke or suspend any <--
10 certificate of registration as a nonresident pharmacy for
11 conduct which causes serious bodily or serious psychological
12 injury to a resident of this Commonwealth if PROVIDED THAT the <--
13 board has referred the matter to the regulatory or licensing
14 agency in the state in which the nonresident pharmacy is
15 located. and the regulatory or licensing agency fails to: <--

16 ~~(1) Initiate an investigation within forty five days of~~
17 ~~referral;~~

18 ~~(2) Complete its investigation within one hundred twenty~~
19 ~~days of referral;~~

20 ~~(3) Resolve the referral through formal agreement,~~
21 ~~settlement or decision within one hundred eighty days; or~~

22 ~~(4) Initiate disciplinary proceedings when the proceedings~~
23 ~~are determined to be necessary in the judgment of the regulatory~~
24 ~~or licensing agency in the state in which the nonresident~~
25 ~~pharmacy is located.~~

26 (G) THE BOARD MAY DENY, REVOKE OR SUSPEND ANY CERTIFICATE OF <--
27 REGISTRATION AS A NONRESIDENT PHARMACY UPON PROOF SATISFACTORY
28 TO THE BOARD THAT THE NONRESIDENT PHARMACY HAS HAD ITS PERMIT TO
29 CONDUCT A PHARMACY SUSPENDED, REVOKED OR OTHERWISE DISCIPLINED
30 BY THE PROPER LICENSING AUTHORITY OF ANOTHER STATE.

1 ~~(f)~~ (H) It shall be unlawful for any nonresident pharmacy <--
2 which has not been issued a certificate of registration pursuant
3 to this section to advertise its services in this Commonwealth,
4 or for any person who is a resident of this Commonwealth to
5 advertise the pharmacy services of a nonresident pharmacy which
6 has not received a certificate of registration from the board,
7 with the knowledge that the advertisement will or is likely to
8 induce members of the public in this Commonwealth to use the
9 pharmacy for dispensing prescriptions.

10 SECTION 4. SECTION 5(B) OF THE ACT IS AMENDED BY ADDING A <--
11 CLAUSE TO READ:

12 SECTION 5. REFUSAL TO GRANT, REVOCATION AND SUSPENSION.--* *
13 *

14 (B) THE BOARD SHALL HAVE THE POWER TO REFUSE, REVOKE OR
15 SUSPEND THE PERMIT OF ANY PHARMACY UPON PROOF SATISFACTORY TO IT
16 THAT:

17 * * *

18 (7) THE PHARMACY'S LICENSE, PERMIT OR REGISTRATION TO
19 CONDUCT A PHARMACY OR A NONRESIDENT PHARMACY ISSUED BY THE
20 PROPER LICENSING AUTHORITY OF ANOTHER STATE HAS BEEN REVOKED,
21 SUSPENDED OR OTHERWISE DISCIPLINED.

22 * * *

23 Section ~~3~~ 5. This act shall take effect in 60 days. <--