

Long-Term Care Patient Access to Pharmaceuticals

This Act provides a mechanism to enable patients with the ability to acquire lower cost drugs through the Veterans' Administration to access those drugs if those patients reside in a different long-term care facility. This means permitting the pharmacy within the long-term care facility or which has a contract with the long-term care facility to receive the lower cost drugs directly from the Veterans' Administration Drug Benefit Program in the patient's name and repackage and re-label those drugs so they may be dispensed in unit doses to the patient.

Submitted as:

Pennsylvania

[HB2034](#)

Status: Enacted into law in 2008.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Permit Certain Patients in
2 Long-Term Care Facilities to Access the Veterans’ Administration Drug Benefit Program.”

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4 Section 2. [*Legislative Intent.*] The [General Assembly] finds and declares:

5 (1) A mechanism is to be provided whereby patients who have the ability to acquire
6 lower cost drugs through the Veterans’ Administration have access to those drugs if they reside
7 in a long-term care facility.

8 (2) The mechanism is to be provided by permitting the pharmacy within the long-term
9 care facility or which has a contract with the long-term care facility to:

10 (a) receive the lower cost drugs directly from the Veterans' Administration Drug
11 Benefit Program in the patient's name; and

12 (b) repackage and relabel those drugs so they may be dispensed in unit doses in
13 compliance with the Food and Drug Administration, the United States Pharmacopeia and the
14 long-term care facility's policies and procedures to patients in a long-term care facility.

15 (3) This Act shall be interpreted and construed to effectuate the following purposes:

16 (a) To provide for the care, protection, and treatment of patients in long-term care
17 facilities by allowing them to use the drug benefit provided by the Veterans’ Administration.

18 (b) Consistent with the care, protection and treatment of patients in long-term care
19 facilities, to provide a means by which a pharmacy in a long-term care facility or a pharmacy
20 which has a contract with a long-term care facility may:

21 (I) accept, on behalf of the patient, drugs received directly from the
22 Veterans' Administration; and

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

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

29 (4) Only people eligible for benefits provided by the Veterans’ Administration are
30 eligible for the program under this Act.

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Section 3. [*Definitions.*] Unless the context clearly indicates otherwise, as used in this

Act:

- (1) “Board,” means the State Board of Pharmacy.
- (2) “Drug source facility,” means a facility where drugs are lawfully manufactured, dispensed or distributed, and which is operated by or under contract with the Veterans’ Administration or approved by the Veterans’ Administration.
- (3) “Long-term care facility,” means a long-term care nursing facility as defined in [insert citation].
- (4) “Pharmaceutical provider” means an entity that employs a pharmacist.

Section 4. [*Third-Party Drugs in Long-Term Care Facilities.*]

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

- (1) A pharmacist employed by a long-term care facility.
- (2) A pharmacy that contracts with a long-term care facility to fill prescriptions for patients of the long-term care facility.

(B) A person authorized under subsection (A) to dispense a drug shall repackage, relabel and dispense the drug in a unit dose if all of the following conditions are met:

- (1) The drug is obtained from a drug source facility.
- (2) There is a prescription for the drug.
- (3) The prescriber has signed a form authorizing the long-term care facility to administer a drug from a drug source facility outside the long-term care facility.
- (4) The patient has signed a form authorizing the long-term care facility to administer a drug from a drug source facility outside the long-term care facility and provided payment information for payment of the related fees to the pharmacy. In the case of a minor or a patient who is unable to sign the form, a parent, a guardian, an agent acting under a power of attorney or a family member is authorized to sign the form. The form must explain that a person authorized under subsection (A) to dispense a drug from a drug source facility outside the long-term care facility:

- (a) is required to go through the process of repackaging and relabeling the drug;
- (b) may charge a fee for repackaging and relabeling the drug, including the amount of the fee and the frequency of its assessment; and
- (c) has immunity from civil liability arising from dispensation of the drug if the person properly repackages and relabels the drug as set forth in subsection (A) of this section.

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

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

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

- (a) The name and address of the dispensing pharmacy.
- (b) The name of the dispensing pharmacist.
- (c) The lot number of the drug.
- (d) A copy of the original prescription.

80 (e) The date the drug was dispensed.
81 (f) Directions for use, contraindications and other materials required by
82 law to be provided to the patient.

83 (C) The [board] has the following powers and duties:

84 (1) Develop the form required by subsections (B)(3) and (B)(4) of this section of
85 this Act.

86 (2) Publish a notice in the [state Bulletin] that form has been developed.

87 (D) For each drug dispensed in accordance with section 4(A) of this Act, the person
88 authorized to dispense the drug and the long-term care facility shall maintain a record for at least
89 [two years] of all of the items specified in subsection (B)(7) of this section of this Act.

90 (E) A person authorized under subsection (A) of this section to dispense a drug may
91 charge no more than the [maximum] dispensing fee authorized by the [department of public
92 welfare] regulations under the [medical assistance program].

93 (F) A person authorized under subsection (A) of this section to dispense a drug shall be
94 immune from civil liability arising out of dispensation of the drug if the person properly
95 repackages and relabels a drug based on the information received from the original drug source
96 facility.

97 (G) A long-term care facility or an employee or agent of a long-term care facility that
98 properly administers a drug from a person authorized under subsection (A) of this section to
99 dispense the drug shall be immune from civil liability arising out of administration of the drug.

100 (H) A pharmacist authorized under subsection (A) of this section to dispense a drug who
101 properly relabels and repackages the drug shall not be deemed to have engaged in unprofessional
102 conduct under [insert citation].

103

104 Section 5. [*Severability.*] [Insert severability clause.]

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106 Section 6. [*Repealer.*] [Insert repealer clause.]

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108 Section 7. [*Effective Date.*] [Insert effective date.]