

ACT No. 2002-498

1 HB61

2 44002-5

3 By Representatives Page, Martin, Thigpen, Newton (C), Spicer,
4 Boothe, Melton, Black (L), Graham, McDaniel, Willis, Mitchell,
5 Hayden, Bandy, McClammy, Jackson and Knight

6 RFD: Health

7 First Read: 08-JAN-2002

8 PFD 01/07/2002



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Enrolled, An Act,

To allow certain health care facilities and hospice care programs to transfer unused prescription medications to charitable clinics for use at the clinics under certain conditions; and to provide for immunity under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and cited as the "John G. Page, Jr. Act".

Section 2. As used in this act, the following terms shall have the following meanings:

(1) ASSISTED LIVING FACILITY. An institution or facility licensed as an assisted living facility under regulations of the State Board of Health.

(2) CHARITABLE CLINIC. The term includes an established free medical clinic as defined in subdivision (1) of Section 4 of Act 2000-680 and any community health center provided for under the Federal Public Health Service Law.

(3) CHARITABLE PATIENT. For purposes of this act, the term shall not include patients who are eligible to receive drugs under the Alabama Medicaid Program or under any other prescription drug program funded in whole or in part by the state.

1 (4) DRUGS. All medicinal substances and preparations
2 recognized by the United States Pharmacopoeia and National
3 Formulary, or any revision thereof, and all substances and
4 preparations intended for external and internal use in the
5 cure, diagnosis, mitigation, treatment, or prevention of
6 disease and all substances and preparations other than food
7 intended to affect the structure or any function of the body.

8 (5) HOSPICE CARE PROGRAM. A hospice care program
9 licensed as a hospice care program under regulations of the
10 State Board of Health.

11 (6) HOSPITAL. An institution licensed as a hospital
12 under regulations of the State Board of Health.

13 (7) LEGEND DRUG. Any drug, medicine, chemical or
14 poison bearing on the label the words, "caution, federal law
15 prohibits dispensing without prescription," or similar wording
16 indicating that such drug, medicine, chemical or poison may be
17 sold or dispensed only upon the prescription of a licensed
18 medical practitioner.

19 (8) NURSING FACILITY. An institution licensed as a
20 nursing facility or intermediate care facility under
21 regulations of the State Board of Health.

22 (9) SPECIALTY CARE ASSISTED LIVING FACILITY. An
23 institution or facility licensed as a specialty care assisted
24 living facility under regulations of the State Board of
25 Health.

1 Section 3. (a)(1) Legend drugs, except controlled
2 substances, dispensed to a patient in a hospital, nursing
3 facility, assisted living facility, or specialty care assisted
4 living facility may be donated and transferred pursuant to
5 this section to a charitable clinic to be used by charitable
6 patients free of charge when all of the following conditions
7 are met:

8 a. The drugs are no longer needed by the original
9 patient.

10 b. The drugs have been maintained in accordance with
11 United States Pharmacopoeia and National Formulary storage
12 requirements.

13 c. The drugs were dispensed by unit dose or an
14 individually sealed dose.

15 d. The drugs have not expired.

16 (2) Legend drugs, except controlled substances,
17 dispensed to a patient cared for by a hospice care program may
18 be donated and transferred pursuant to this section to a
19 charitable clinic to be used by charitable patients free of
20 charge when all of the following conditions are met:

21 a. The drugs are no longer needed by the original
22 patient.

23 b. The drugs were dispensed by unit dose or bulk
24 packaging.

25 c. The drugs have not expired.

1 (b) The physician or licensed health care
2 professional of the charitable clinic shall be responsible for
3 determining the suitability of the product for reuse. No
4 product where integrity may not be assured shall be used by
5 the physician at the charitable clinic. A legend drug shall be
6 assigned the expiration date stated on the package.

7 (c) Pursuant to a voluntary agreement between a
8 nursing home, hospital, specialty care assisted living
9 facility, or hospice care program and a charitable clinic,
10 legend drugs may be transferred pursuant to this act from the
11 nursing home, hospital, assisted living facility, or specialty
12 care assisted living facility or from the residence of a
13 hospice patient to the charitable clinic if the following
14 procedures are satisfied:

15 (1) The legend drugs shall be physically transferred
16 to a person authorized in writing to pick up the drugs for the
17 charitable clinic.

18 (2) The file of a patient at the nursing home,
19 hospital, assisted living facility, or specialty care assisted
20 living facility or the file of a patient cared for by a
21 hospice care program shall document his or her consent or in
22 the case of the death of a patient the patient's family's
23 consent for the donation.

24 (3) The patient's name, prescription number, and any
25 other identifying marks shall be obliterated from the drug

1 container prior to removal from the nursing home, hospital,
2 assisted living facility, or specialty care assisted living
3 facility or the residence of a hospice patient.

4 (4) The name, strength, and expiration date of the
5 legend drug shall remain on the medication package label.

6 (5) An inventory list of the legend drugs shall
7 accompany the drugs being transferred, which list, at a
8 minimum, shall contain for each drug the medication name,
9 strength, expiration date, and quantity.

10 (6) Within one week after an inventoried list of
11 legend drugs is made available, the drugs shall be picked up
12 by a charitable clinic or the drugs shall be destroyed.

13 (d) A licensed nursing home, hospital, specialty
14 care assisted living facility, assisted living facility, or
15 hospice care program, or an owner, operator, employee, or
16 agent of a licensee, shall not be liable for civil damages or
17 for any criminal liability as a result of any acts or
18 omissions in transferring any drugs pursuant to this section
19 unless the act or omission was the result of willful
20 misconduct.

21 (e) No pharmaceutical manufacturer shall be liable
22 for any claim or injury arising ~~from the~~ due to a transfer of
23 any ~~prescription~~ legend drug pursuant to this act, including,
24 but not limited to, liability for failure to transfer or

1 communicate product or consumer information or the expiration
2 date regarding the transferred drug.

3 (f) The State Board of Health may make rules and
4 regulations to carry out the provisions and purposes of this
5 section.

6 (g) All legend drugs distributed under the authority
7 of this act shall be dispensed to a patient, resident or other
8 user only on the order of a licensed physician or other
9 legally authorized licensed medical practitioner.

10 Section 4. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 31-JAN-2002, as amended.

Greg Pappas
Clerk

Senate
House

11-APR-2002
11-APR-2002

Amended and Passed
Concurred in Senate
Amendment

APPROVED

TIME

4-26-02
10:35 am

GOVERNOR