



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1046

Introduced 02/03/05, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act
210 ILCS 85/7
225 ILCS 85/30

from Ch. 111 1/2, par. 148
from Ch. 111, par. 4150

Creates the Use and Sale of Retractable Needles Act. Provides that hospitals may use and pharmacies may sell only retractable needles. Makes violation a ground for discipline under the Hospital Licensing Act and the Pharmacy Practice Act of 1987. Amends the disciplinary provisions of those Acts to add violation of the Use and Sale of Retractable Needles Act.

LRB094 06859 DRJ 36966 b

1 AN ACT concerning health care.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Use
5 and Sale of Retractable Needles Act.

6 Section 10. Use and sale of retractable needles. Hospitals
7 licensed under the Hospital Licensing Act may use and
8 pharmacies licensed under the Pharmacy Practice Act of 1987 may
9 sell only retractable needles.

10 Section 15. Penalties. A violation of this Act is a ground
11 for discipline under the appropriate licensing Act.

12 Section 90. The Hospital Licensing Act is amended by
13 changing Section 7 as follows:

14 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

15 Sec. 7. (a) The Director after notice and opportunity for
16 hearing to the applicant or licensee may deny, suspend, or
17 revoke a permit to establish a hospital or deny, suspend, or
18 revoke a license to open, conduct, operate, and maintain a
19 hospital in any case in which he finds that there has been a
20 substantial failure to comply with the provisions of this Act,
21 ~~or~~ the Hospital Report Card Act, the Use and Sale of
22 Retractable Needles Act, or the standards, rules, and
23 regulations established by virtue of ~~either of~~ those Acts.

24 (b) Such notice shall be effected by registered mail or by
25 personal service setting forth the particular reasons for the
26 proposed action and fixing a date, not less than 15 days from
27 the date of such mailing or service, at which time the
28 applicant or licensee shall be given an opportunity for a
29 hearing. Such hearing shall be conducted by the Director or by

1 an employee of the Department designated in writing by the
2 Director as Hearing Officer to conduct the hearing. On the
3 basis of any such hearing, or upon default of the applicant or
4 licensee, the Director shall make a determination specifying
5 his findings and conclusions. In case of a denial to an
6 applicant of a permit to establish a hospital, such
7 determination shall specify the subsection of Section 6 under
8 which the permit was denied and shall contain findings of fact
9 forming the basis of such denial. A copy of such determination
10 shall be sent by registered mail or served personally upon the
11 applicant or licensee. The decision denying, suspending, or
12 revoking a permit or a license shall become final 35 days after
13 it is so mailed or served, unless the applicant or licensee,
14 within such 35 day period, petitions for review pursuant to
15 Section 13.

16 (c) The procedure governing hearings authorized by this
17 Section shall be in accordance with rules promulgated by the
18 Department and approved by the Hospital Licensing Board. A full
19 and complete record shall be kept of all proceedings, including
20 the notice of hearing, complaint, and all other documents in
21 the nature of pleadings, written motions filed in the
22 proceedings, and the report and orders of the Director and
23 Hearing Officer. All testimony shall be reported but need not
24 be transcribed unless the decision is appealed pursuant to
25 Section 13. A copy or copies of the transcript may be obtained
26 by any interested party on payment of the cost of preparing
27 such copy or copies.

28 (d) The Director or Hearing Officer shall upon his own
29 motion, or on the written request of any party to the
30 proceeding, issue subpoenas requiring the attendance and the
31 giving of testimony by witnesses, and subpoenas duces tecum
32 requiring the production of books, papers, records, or
33 memoranda. All subpoenas and subpoenas duces tecum issued under
34 the terms of this Act may be served by any person of full age.
35 The fees of witnesses for attendance and travel shall be the
36 same as the fees of witnesses before the Circuit Court of this

1 State, such fees to be paid when the witness is excused from
2 further attendance. When the witness is subpoenaed at the
3 instance of the Director, or Hearing Officer, such fees shall
4 be paid in the same manner as other expenses of the Department,
5 and when the witness is subpoenaed at the instance of any other
6 party to any such proceeding the Department may require that
7 the cost of service of the subpoena or subpoena duces tecum and
8 the fee of the witness be borne by the party at whose instance
9 the witness is summoned. In such case, the Department in its
10 discretion, may require a deposit to cover the cost of such
11 service and witness fees. A subpoena or subpoena duces tecum
12 issued as aforesaid shall be served in the same manner as a
13 subpoena issued out of a court.

14 (e) Any Circuit Court of this State upon the application of
15 the Director, or upon the application of any other party to the
16 proceeding, may, in its discretion, compel the attendance of
17 witnesses, the production of books, papers, records, or
18 memoranda and the giving of testimony before the Director or
19 Hearing Officer conducting an investigation or holding a
20 hearing authorized by this Act, by an attachment for contempt,
21 or otherwise, in the same manner as production of evidence may
22 be compelled before the court.

23 (f) The Director or Hearing Officer, or any party in an
24 investigation or hearing before the Department, may cause the
25 depositions of witnesses within the State to be taken in the
26 manner prescribed by law for like depositions in civil actions
27 in courts of this State, and to that end compel the attendance
28 of witnesses and the production of books, papers, records, or
29 memoranda.

30 (Source: P.A. 93-563, eff. 1-1-04.)

31 Section 95. The Pharmacy Practice Act of 1987 is amended by
32 changing Section 30 as follows:

33 (225 ILCS 85/30) (from Ch. 111, par. 4150)

34 (Section scheduled to be repealed on January 1, 2008)

1 Sec. 30. (a) In accordance with Section 11 of this Act, the
2 Department may refuse to issue, restore, or renew, or may
3 revoke, suspend, place on probation, reprimand or take other
4 disciplinary action as the Department may deem proper with
5 regard to any license or certificate of registration for any
6 one or combination of the following causes:

7 1. Material misstatement in furnishing information to
8 the Department.

9 2. Violations of this Act, or the rules promulgated
10 hereunder.

11 3. Making any misrepresentation for the purpose of
12 obtaining licenses.

13 4. A pattern of conduct which demonstrates
14 incompetence or unfitness to practice.

15 5. Aiding or assisting another person in violating any
16 provision of this Act or rules.

17 6. Failing, within 60 days, to respond to a written
18 request made by the Department for information.

19 7. Engaging in dishonorable, unethical or
20 unprofessional conduct of a character likely to deceive,
21 defraud or harm the public.

22 8. Discipline by another U.S. jurisdiction or foreign
23 nation, if at least one of the grounds for the discipline
24 is the same or substantially equivalent to those set forth
25 herein.

26 9. Directly or indirectly giving to or receiving from
27 any person, firm, corporation, partnership or association
28 any fee, commission, rebate or other form of compensation
29 for any professional services not actually or personally
30 rendered.

31 10. A finding by the Department that the licensee,
32 after having his license placed on probationary status has
33 violated the terms of probation.

34 11. Selling or engaging in the sale of drug samples
35 provided at no cost by drug manufacturers.

36 12. Physical illness, including but not limited to,

1 deterioration through the aging process, or loss of motor
2 skill which results in the inability to practice the
3 profession with reasonable judgment, skill or safety.

4 13. A finding that licensure or registration has been
5 applied for or obtained by fraudulent means.

6 14. The applicant, or licensee has been convicted in
7 state or federal court of any crime which is a felony or
8 any misdemeanor related to the practice of pharmacy, of
9 which an essential element is dishonesty.

10 15. Habitual or excessive use or addiction to alcohol,
11 narcotics, stimulants or any other chemical agent or drug
12 which results in the inability to practice with reasonable
13 judgment, skill or safety.

14 16. Willfully making or filing false records or reports
15 in the practice of pharmacy, including, but not limited to
16 false records to support claims against the medical
17 assistance program of the Department of Public Aid under
18 the Public Aid Code.

19 17. Gross and willful overcharging for professional
20 services including filing false statements for collection
21 of fees for which services are not rendered, including, but
22 not limited to, filing false statements for collection of
23 monies for services not rendered from the medical
24 assistance program of the Department of Public Aid under
25 the Public Aid Code.

26 18. Repetitiously dispensing prescription drugs
27 without receiving a written or oral prescription.

28 19. Upon a finding of a substantial discrepancy in a
29 Department audit of a prescription drug, including
30 controlled substances, as that term is defined in this Act
31 or in the Illinois Controlled Substances Act.

32 20. Physical illness which results in the inability to
33 practice with reasonable judgment, skill or safety, or
34 mental incompetency as declared by a court of competent
35 jurisdiction.

36 21. Violation of the Health Care Worker Self-Referral

1 Act.

2 22. Failing to sell or dispense any drug, medicine, or
3 poison in good faith. "Good faith", for the purposes of
4 this Section, has the meaning ascribed to it in subsection
5 (u) of Section 102 of the Illinois Controlled Substances
6 Act.

7 23. Interfering with the professional judgment of a
8 pharmacist by any registrant under this Act, or his or her
9 agents or employees.

10 24. Violation of the Use and Sale of Retractable
11 Needles Act.

12 (b) The Department may refuse to issue or may suspend the
13 license or registration of any person who fails to file a
14 return, or to pay the tax, penalty or interest shown in a filed
15 return, or to pay any final assessment of tax, penalty or
16 interest, as required by any tax Act administered by the
17 Illinois Department of Revenue, until such time as the
18 requirements of any such tax Act are satisfied.

19 (c) The Department shall revoke the license or certificate
20 of registration issued under the provisions of this Act or any
21 prior Act of this State of any person who has been convicted a
22 second time of committing any felony under the Illinois
23 Controlled Substances Act, or who has been convicted a second
24 time of committing a Class 1 felony under Sections 8A-3 and
25 8A-6 of the Illinois Public Aid Code. A person whose license or
26 certificate of registration issued under the provisions of this
27 Act or any prior Act of this State is revoked under this
28 subsection (c) shall be prohibited from engaging in the
29 practice of pharmacy in this State.

30 (d) In any order issued in resolution of a disciplinary
31 proceeding, the Board may request any licensee found guilty of
32 a charge involving a significant violation of subsection (a) of
33 Section 5, or paragraph 19 of Section 30 as it pertains to
34 controlled substances, to pay to the Department a fine not to
35 exceed \$2,000.

36 (e) In any order issued in resolution of a disciplinary

1 proceeding, in addition to any other disciplinary action, the
2 Board may request any licensee found guilty of noncompliance
3 with the continuing education requirements of Section 12 to pay
4 the Department a fine not to exceed \$1000.

5 (f) The Department shall issue quarterly to the Board a
6 status of all complaints related to the profession received by
7 the Department.

8 (Source: P.A. 92-880, eff. 1-1-04.)