



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2574

Introduced 02/18/05, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

225 ILCS 85/14	from Ch. 111, par. 4134
225 ILCS 85/15	from Ch. 111, par. 4135
225 ILCS 85/18	from Ch. 111, par. 4138
225 ILCS 85/30	from Ch. 111, par. 4150

Amends the Pharmacy Practice Act of 1987. Adds a Division VI license for pharmacies located in Illinois and providing pharmaceutical care to patients of institutions maintaining a Division III pharmacy on its premises without using its own stock of drugs. Provides that the structural, equipment, and record retention requirements for a Division VI pharmacy shall be set by rule. Provides that, upon a showing of a possible violation of the Act, the State Board of Pharmacy may compel a pharmacy practice licensee or applicant for licensure to submit to a mental examination, physical examination, or both, as required by and at the expense of the Department of Financial and Professional Regulation. Provides that failure to submit to a mental or physical examination when directed is grounds for license suspension. Provides that if the Board finds an individual unable to practice because of reasons set forth in the Act, the Board must require that individual to submit to care, counseling, or treatment by a physician or clinical psychologist approved by the Board, as a condition, term, or restriction for continued, restored, or renewed licensure to practice. Effective immediately.

LRB094 03782 RAS 33792 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 5. The Pharmacy Practice Act of 1987 is amended by
5 changing Sections 14, 15, 18, and 30 as follows:

6 (225 ILCS 85/14) (from Ch. 111, par. 4134)

7 (Section scheduled to be repealed on January 1, 2008)

8 Sec. 14. Structural and equipment requirements. No person
9 shall establish or move to a new location any pharmacy unless
10 the pharmacy is licensed with the Department and has on file
11 with the Department a verified statement that:

12 (1) such pharmacy is or will be engaged in the practice
13 of pharmacy; and

14 (2) other than a Division VI pharmacy, such pharmacy
15 will have in stock and shall maintain sufficient drugs and
16 materials as to protect the public it serves within 30 days
17 after the issuance of the registration of the pharmacy.

18 Division I, II, III, IV, or V pharmacies shall be in a
19 suitable, well-lighted and well-ventilated area with at least
20 300 square feet of clean and sanitary contiguous space and
21 shall be suitably equipped for compounding prescriptions,
22 storage of drugs and sale of drugs and to otherwise conduct the
23 practice of pharmacy. The space occupied shall be equipped with
24 a sink with hot and cold water or facilities for heating water,
25 proper sewage outlet, refrigeration storage equipment, and
26 such fixtures, facilities, drugs, equipment and material,
27 which shall include the current editions of the United States
28 Pharmacopoeia/DI, Facts and Comparisons, or any other current
29 compendium approved by the Department, and other such reference
30 works, as will enable a pharmacist to practice pharmacy,
31 including this Act and the rules promulgated under this Act.
32 Such pharmacy shall have the following items: accurate weights

1 of 0.5 gr. to 4 oz. and 20 mg to 100 Gm; and a prescription
2 balance equipped with balance indicator and with mechanical
3 means of arresting the oscillations of the mechanism and which
4 balance shall be sensitive to 0.5 grain (32 mg) or less or an
5 alternative weighing device as approved by the Department, and
6 such other measuring devices as may be necessary for the
7 conduct of the practice of pharmacy.

8 The provisions of this Section with regard to 300 square
9 feet of space shall apply to any pharmacy which is opened after
10 the effective date of this Act. Nothing shall require a
11 pharmacy in existence on the effective date of this Act which
12 is comprised of less than 300 square feet to provide additional
13 space to meet these requirements.

14 The structural and equipment requirements for a Division VI
15 pharmacy shall be set by rule.

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

17 (225 ILCS 85/15) (from Ch. 111, par. 4135)

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

19 Sec. 15. Pharmacy requirements. It shall be unlawful for
20 the owner of any pharmacy, as defined in this Act, to operate
21 or conduct the same, or to allow the same to be operated or
22 conducted, unless:

23 (a) It has a licensed pharmacist, authorized to practice
24 pharmacy in this State under the provisions of this Act, on
25 duty whenever the practice of pharmacy is conducted;

26 (b) Security provisions for all drugs and devices, as
27 determined by rule of the Department, are provided during the
28 absence from the licensed pharmacy of all licensed pharmacists.
29 Maintenance of security provisions is the responsibility of the
30 licensed registered pharmacist in charge; and

31 (c) The pharmacy is licensed under this Act to do business.

32 The Department shall, by rule, provide requirements for
33 each division of pharmacy license and shall, as well provide
34 guidelines for the designation of a registered pharmacist in
35 charge for each division.

1 Division I. Retail Licenses for pharmacies which are open
2 to, or offer pharmacy services to, the general public.

3 Division II. Licenses for pharmacies whose primary
4 pharmacy service is provided to patients or residents of
5 facilities licensed under the Nursing Home Care Act or the
6 Hospital Licensing Act, or "An Act in relation to the founding
7 and operation of the University of Illinois Hospital and the
8 conduct of University of Illinois health care programs",
9 approved July 3, 1931, as amended, and which are not located in
10 the facilities they serve.

11 Division III. Licenses for pharmacies which are located in
12 a facility licensed under the Nursing Home Care Act or the
13 Hospital Licensing Act, or "An Act in relation to the founding
14 and operation of the University of Illinois Hospital and the
15 conduct of University of Illinois health care programs",
16 approved July 3, 1931, as amended, or a facility which is
17 operated by the Department of Human Services (as successor to
18 the Department of Mental Health and Developmental
19 Disabilities) or the Department of Corrections, and which
20 provide pharmacy services to residents or patients of the
21 facility, as well as employees, prescribers and students of the
22 facility.

23 Division IV. Licenses for pharmacies which provide or offer
24 for sale radioactive materials.

25 Division V. Licenses for pharmacies which hold licenses in
26 Division II or Division III which also provide pharmacy
27 services to the general public, or pharmacies which are located
28 in or whose primary pharmacy service is to ambulatory care
29 facilities or schools of veterinary medicine or other such
30 institution or facility.

31 Division VI. Licenses for pharmacies located in Illinois
32 and providing pharmaceutical care to patients of institutions
33 maintaining a Division III pharmacy on its premises without
34 using its own stock of drugs. The pharmaceutical care shall
35 only be given in conjunction with the Division III pharmacy. No
36 services shall be provided to the public. Each Division VI

1 pharmacy shall file with the Department a notarized statement
2 identifying the institutions to which it provides services
3 within 10 days of providing services. A pharmacy maintaining a
4 Division I, II, or IV license may not apply for a Division VI
5 license. Nothing in this paragraph shall constitute a change to
6 the practice of pharmacy as defined in Section 3.

7 The Director may waive the requirement for a pharmacist to
8 be on duty at all times for State facilities not treating human
9 ailments.

10 It shall be unlawful for any person, who is not a licensed
11 pharmacy or health care facility, to purport to be such or to
12 use in name, title, or sign designating, or in connection with
13 that place of business, any of the words: "pharmacy",
14 "pharmacist", "pharmacy department", "apothecary", "druggist",
15 "drug", "drugs", "medicines", "medicine store", "drug
16 sundries", "prescriptions filled", or any list of words
17 indicating that drugs are compounded or sold to the lay public,
18 or prescriptions are dispensed therein. Each day during which,
19 or a part which, such representation is made or appears or such
20 a sign is allowed to remain upon or in such a place of business
21 shall constitute a separate offense under this Act.

22 The holder of any license or certificate of registration
23 shall conspicuously display it in the pharmacy in which he is
24 engaged in the practice of pharmacy. The registered pharmacist
25 in charge shall conspicuously display his name in such
26 pharmacy. The pharmacy license shall also be conspicuously
27 displayed.

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

29 (225 ILCS 85/18) (from Ch. 111, par. 4138)

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

31 Sec. 18. Record retention.

32 (a) Except as provided in subsection (b), there shall be
33 kept in every drugstore or pharmacy a suitable book, file, or
34 electronic record keeping system in which shall be preserved
35 for a period of not less than 5 years the original of every

1 written prescription and the original transcript or copy of
2 every verbal prescription filled, compounded, or dispensed, in
3 such pharmacy; and such book or file of prescriptions shall at
4 all reasonable times be open to inspection to the pharmacy
5 coordinator and the duly authorized agents or employees of the
6 Department.

7 Every prescription filled or refilled shall contain the
8 unique identifier of the person authorized to practice pharmacy
9 under the provision of this Act who fills or refills the
10 prescription.

11 Records kept pursuant to this Section may be maintained in
12 an alternative data retention system, such as a direct digital
13 imaging system, provided that:

14 (1) the records maintained in the alternative data
15 retention system contain all of the information required in
16 a manual record;

17 (2) the data processing system is capable of producing
18 a hard copy of the electronic record on the request of the
19 Board, its representative, or other authorized local,
20 State, or federal law enforcement or regulatory agency; and

21 (3) the digital images are recorded and stored only by
22 means of a technology that does not allow subsequent
23 revision or replacement of the images.

24 As used in this Section, "digital imaging system" means a
25 system, including people, machines, methods of organization,
26 and procedures, that provides input, storage, processing,
27 communications, output, and control functions for digitized
28 representations of original prescription records.

29 Inpatient drug orders may be maintained within an
30 institution in a manner approved by the Department.

31 (b) The record retention requirements for a Division VI
32 pharmacy shall be set by rule.

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

34 (225 ILCS 85/30) (from Ch. 111, par. 4150)

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

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

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

34 (e) In any order issued in resolution of a disciplinary
35 proceeding, in addition to any other disciplinary action, the
36 Board may request any licensee found guilty of noncompliance

1 with the continuing education requirements of Section 12 to pay
2 the Department a fine not to exceed \$1000.

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

6 (g) In enforcing this Section, the Board may, upon a
7 showing of a possible violation of this Act, compel a licensee
8 or applicant to submit to a mental or physical examination, or
9 both, as required by and at the expense of the Department. The
10 examining physicians or clinical psychologists shall be those
11 specifically designated by the Board. The Board or the
12 Department may order (i) the examining physician to present
13 testimony concerning the mental or physical examination of a
14 licensee or applicant or (ii) the examining clinical
15 psychologist to present testimony concerning the mental
16 examination of a licensee or applicant. No information shall be
17 excluded by reason of any common law or statutory privilege
18 relating to communications between a licensee or applicant and
19 the examining physician or clinical psychologist. An
20 individual to be examined may have, at his or her own expense,
21 another physician or clinical psychologist of his or her choice
22 present during all aspects of the examination. Failure of an
23 individual to submit to a mental or physical examination, when
24 directed, is grounds for suspension of his or her license. The
25 license must remain suspended until the individual submits to
26 the examination or the Board finds, after notice and hearing,
27 that the refusal to submit to the examination was with
28 reasonable cause.

29 If the Board finds an individual unable to practice because
30 of the reasons set forth in this Section, the Board must
31 require the individual to submit to care, counseling, or
32 treatment by a physician or clinical psychologist approved by
33 the Board as a condition, term, or restriction for continued,
34 restored, or renewed licensure to practice. In lieu of care,
35 counseling, or treatment, the Board may recommend that the
36 Department immediately suspend or revoke the license of the

1 individual or otherwise discipline the licensee.

2 Any individual whose license was issued, continued,
3 restored, or renewed subject to conditions, terms, or
4 restrictions, as provided for in this Section, or any
5 individual who was disciplined or placed on supervision
6 pursuant to this Section must be referred to the Director for a
7 determination as to whether the person shall have his or her
8 license suspended immediately, pending a hearing by the Board.

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

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.