



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1007

Introduced 1/12/2023, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

225 ILCS 85/15	from Ch. 111, par. 4135
225 ILCS 85/15.7 new	
225 ILCS 85/18	from Ch. 111, par. 4138

Amends the Pharmacy Practice Act. Requires that at least one registered pharmacy technician be on duty whenever the practice of pharmacy is conducted. Requires that a pharmacy set a prescription filing limit of not more than 10 prescriptions filled per hour. Requires a pharmacy to mandate at least 10 pharmacy technician hours per 100 prescriptions filled. Prohibits pharmacies from requiring pharmacists to participate in advertising or soliciting activities that may jeopardize patient health, safety, or welfare and any activities or external factors that interfere with the pharmacist's ability to provide appropriate professional services. Provides that a pharmacist shall receive specified break periods. Provides that a pharmacy may not require a pharmacist to work during a break period, shall make available a break room meeting specified requirements, shall keep a complete and accurate record of the break periods, and may not require a pharmacist to work more than 8 hours a workday. Provides for enforcement and penalties. Provides whistleblower protections for an employee of a pharmacy if the pharmacy retaliates against the employee for certain actions. Requires pharmacies to maintain a record of any errors in the receiving, filling, or dispensing of prescriptions.

LRB103 04890 AMQ 49900 b

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 is amended by
5 changing Sections 15 and 18 and by adding Section 15.7 as
6 follows:

7 (225 ILCS 85/15) (from Ch. 111, par. 4135)

8 (Section scheduled to be repealed on January 1, 2028)

9 Sec. 15. Pharmacy requirements.

10 (1) It shall be unlawful for the owner of any pharmacy, as
11 defined in this Act, to operate or conduct the same, or to
12 allow the same to be operated or conducted, unless:

13 (a) It has a licensed pharmacist, authorized to
14 practice pharmacy in this State under the provisions of
15 this Act, and at least one pharmacy technician registered
16 under the provisions of this Act on duty whenever the
17 practice of pharmacy is conducted;

18 (b) Security provisions for all drugs and devices, as
19 determined by rule of the Department, are provided during
20 the absence from the licensed pharmacy of all licensed
21 pharmacists. Maintenance of security provisions is the
22 responsibility of the licensed pharmacist in charge; ~~and~~

23 (c) The pharmacy is licensed under this Act to conduct

1 the practice of pharmacy in any and all forms from the
2 physical address of the pharmacy's primary inventory where
3 U.S. mail is delivered. If a facility, company, or
4 organization operates multiple pharmacies from multiple
5 physical addresses, a separate pharmacy license is
6 required for each different physical address;~~;~~

7 (d) The pharmacy sets a prescription filling limit of
8 not more than 10 prescriptions filled per hour;

9 (e) The pharmacy mandates at least 10 pharmacy
10 technician hours per 100 prescriptions filled;

11 (f) The pharmacy places a general prohibition on
12 activities that distract pharmacists that includes:

13 (i) advertising or soliciting that may jeopardize
14 patient health, safety, or welfare; and

15 (ii) any activities or external factors, including
16 promotional requirements and productivity quotas, that
17 interfere with the pharmacist's ability to provide
18 appropriate professional services;

19 (g) Notwithstanding any other provision of law, the
20 pharmacy provides a minimum of 2 15-minute paid rest
21 breaks and one 30-minute meal period in each workday on
22 which the pharmacist works at least 7 hours; a pharmacy
23 may not require a pharmacist to work during a break
24 period; a pharmacy that violates this paragraph shall pay
25 to the pharmacist 3 times the pharmacist's regular hourly
26 rate of pay for each workday during which the required

1 breaks were not provided;

2 (h) The pharmacy makes available at all times a room
3 on the pharmacy's premises with adequate seating and
4 tables for the purpose of allowing a pharmacist to enjoy
5 break periods in a clean and comfortable environment;

6 (i) The pharmacy keeps a complete and accurate record
7 of the break periods of its pharmacists; and

8 (j) The pharmacy limits a pharmacist from working more
9 than 8 hours a workday.

10 (2) The Department may allow a pharmacy that is not
11 located at the same location as its home pharmacy and at which
12 pharmacy services are provided during an emergency situation,
13 as defined by rule, to be operated as an emergency remote
14 pharmacy. An emergency remote pharmacy operating under this
15 subsection (2) shall operate under the license of the home
16 pharmacy.

17 (3) The Secretary may waive the requirement for a
18 pharmacist to be on duty at all times for State facilities not
19 treating human ailments. This waiver of the requirement
20 remains in effect until it is rescinded by the Secretary and
21 the Department provides written notice of the rescission to
22 the State facility.

23 (4) It shall be unlawful for any person, who is not a
24 licensed pharmacy or health care facility, to purport to be
25 such or to use in name, title, or sign designating, or in
26 connection with that place of business, any of the words:

1 "pharmacy", "pharmacist", "pharmacy department",
2 "apothecary", "druggist", "drug", "drugs", "medicines",
3 "medicine store", "drug sundries", "prescriptions filled", or
4 any list of words indicating that drugs are compounded or sold
5 to the lay public, or prescriptions are dispensed therein.
6 Each day during which, or a part which, such representation is
7 made or appears or such a sign is allowed to remain upon or in
8 such a place of business shall constitute a separate offense
9 under this Act.

10 (5) The holder of any license shall conspicuously display
11 it in the pharmacy in which he is engaged in the practice of
12 pharmacy. The pharmacist in charge shall conspicuously display
13 his name in such pharmacy. The pharmacy license shall also be
14 conspicuously displayed.

15 (6) It is unlawful for any pharmacy or pharmacy's agent or
16 representative to take any action against any person in
17 retaliation for the exercise of rights under this Section. In
18 any civil proceeding brought under this subsection, if the
19 plaintiff establishes that the plaintiff was employed by the
20 defendant, exercised rights under this Section, or alleged in
21 good faith that the defendant was not complying with this
22 Section, and was thereafter terminated, demoted, or otherwise
23 penalized by the defendant, then a rebuttable presumption
24 shall arise that the defendant's action was taken in
25 retaliation for the exercise of rights established by this
26 Section. To rebut the presumption, the defendant must prove

1 that the sole reason for the termination, demotion, or penalty
2 was a legitimate business reason.

3 (7) A person claiming violation of this Section shall be
4 entitled to all remedies available under law or in equity,
5 including, but not limited to, damages, back pay,
6 reinstatement, or injunctive relief. Any person terminated in
7 violation of this Section shall recover treble the person's
8 lost normal daily compensation and fringe benefits, together
9 with interest thereon, and any consequential damages suffered
10 by the employee. The court shall award reasonable attorney's
11 fees and costs to a prevailing plaintiff in an enforcement
12 action under this Section.

13 (Source: P.A. 100-497, eff. 9-8-17.)

14 (225 ILCS 85/15.7 new)

15 Sec. 15.7. Whistleblower protection.

16 (a) In this Section, "retaliatory action" means the
17 reprimand, discharge, suspension, demotion, denial of
18 promotion or transfer, or change in the terms and conditions
19 of employment of any employee of a pharmacy that is taken in
20 retaliation for the employee's involvement in a protected
21 activity set forth in subsection (b).

22 (b) A pharmacy shall not take any retaliatory action
23 against an employee of the pharmacy because the employee does
24 any of the following:

25 (1) discloses or threatens to disclose to a supervisor

1 or to a public body an activity, inaction, policy, or
2 practice implemented by a pharmacy that the employee
3 reasonably believes is in violation of a law, rule, or
4 regulation;

5 (2) provides information to or testifies before any
6 public body conducting an investigation, hearing, or
7 inquiry into any violation of a law, rule, or regulation
8 by a pharmacy; or

9 (3) assists or participates in a proceeding to enforce
10 the provisions of this Act.

11 (c) A violation of this Section may be established only
12 upon a finding that:

13 (1) the employee of the pharmacy engaged in conduct
14 described in subsection (b); and

15 (2) this conduct was a contributing factor in the
16 retaliatory action alleged by the employee.

17 There is no violation of this Section, however, if the
18 facility demonstrates by clear and convincing evidence that it
19 would have taken the same unfavorable personnel action in the
20 absence of that conduct.

21 (d) The employee of the pharmacy may be awarded all
22 remedies necessary to make the employee whole and to prevent
23 future violations of this Section. Remedies imposed by the
24 court may include, but are not limited to, all of the
25 following:

26 (1) reinstatement of the employee to either the same

1 position held before the retaliatory action or to an
2 equivalent position;

3 (2) two times the amount of back pay;

4 (3) interest on the back pay;

5 (4) reinstatement of full fringe benefits and
6 seniority rights; and

7 (5) payment of reasonable costs and attorney's fees.

8 (e) Nothing in this Section shall be deemed to diminish
9 the rights, privileges, or remedies of an employee of a
10 pharmacy under any other federal or State law, rule, or
11 regulation or under any employment contract.

12 (225 ILCS 85/18) (from Ch. 111, par. 4138)

13 (Section scheduled to be repealed on January 1, 2028)

14 Sec. 18. Record retention. There shall be kept in every
15 drugstore or pharmacy a suitable book, file, or electronic
16 record keeping system in which shall be preserved for a period
17 of not less than 5 years the original, or an exact, unalterable
18 image, of every written prescription and the original
19 transcript or copy of every verbal prescription filled,
20 compounded, or dispensed, in such pharmacy; and such book,
21 file, or electronic record keeping system of prescriptions
22 shall at all reasonable times be open to inspection to the
23 chief pharmacy coordinator and the duly authorized agents or
24 employees of the Department. In addition, any errors in the
25 receiving, filling, or dispensing of prescriptions of any

1 kind, including any errors resulting in an adverse drug
2 interaction or adversely affecting the health of the patient,
3 shall be a part of these records.

4 Every prescription filled or refilled shall contain the
5 unique identifiers of the persons authorized to practice
6 pharmacy under the provision of this Act who fills or refills
7 the prescription.

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

11 (1) the records maintained in the alternative data
12 retention system contain all of the information required
13 in a manual record;

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

18 (3) the digital images are recorded and stored only by
19 means of a technology that does not allow subsequent
20 revision or replacement of the images; and

21 (4) the prescriptions may be retained in written form
22 or recorded in a data processing system, provided that
23 such order can be produced in printed form upon lawful
24 request.

25 As used in this Section, "digital imaging system" means a
26 system, including people, machines, methods of organization,

1 and procedures, that provides input, storage, processing,
2 communications, output, and control functions for digitized
3 representations of original prescription records.

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

6 (Source: P.A. 100-497, eff. 9-8-17.)