



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/05/04, by Elizabeth Coulson

SYNOPSIS AS INTRODUCED:

225 ILCS 85/6	from Ch. 111, par. 4126
225 ILCS 85/10	from Ch. 111, par. 4130
225 ILCS 85/22a	
225 ILCS 85/30	from Ch. 111, par. 4150

Amends the Pharmacy Practice Act of 1987. Removes provisions requiring that (i) an applicant for licensure be a United States citizen or legally admitted alien, (ii) the Department of Professional Regulation employ at least one attorney who is a pharmacist to prosecute violations of the Act and its rules, and (iii) pharmacy investigators be the only Department investigators to inspect pharmacies. Prohibits Division IV pharmacies from using automated dispensing and storage systems. Makes changes in the provisions concerning grounds for disciplinary action.

LRB093 17942 AMC 43625 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning professional 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 6, 10, 22a, and 30 as follows:

6 (225 ILCS 85/6) (from Ch. 111, par. 4126)

7 (Section scheduled to be repealed on January 1, 2008)

8 Sec. 6. Each individual seeking licensure as a registered
9 pharmacist shall make application to the Department and shall
10 provide evidence of the following:

11 1. (blank) ~~that he is a United States citizen or legally~~
12 ~~admitted alien;~~

13 2. that he or she has not engaged in conduct or behavior
14 determined to be grounds for discipline under this Act;

15 3. that he or she is a graduate of a first professional
16 degree program in pharmacy of a university recognized and
17 approved by the Department;

18 4. that he or she has successfully completed a program of
19 practice experience under the direct supervision of a
20 registered pharmacist in a pharmacy in this State, or in any
21 other State; and

22 5. that he or she has passed an examination recommended by
23 the Board of Pharmacy and authorized by the Department.

24 The program of practice experience referred to in paragraph
25 (4) of this Section shall be fulfilled by the successful
26 completion of a practice course offered by a school or college
27 of pharmacy or department of pharmacy recognized and approved
28 by the Department, which shall be a minimum of one academic
29 quarter in length.

30 Any person applying for a license as a registered
31 pharmacist in this State who has graduated from a first
32 professional degree program in pharmacy of at least 5 academic

1 years from a school or college of pharmacy, which at the time
2 of such graduation was not recognized and approved as reputable
3 and in good standing by the Department, shall be required, in
4 order to qualify for admittance to take the Department's
5 examination for licensure as a registered pharmacist, to pass a
6 preliminary diagnostic examination recommended by the Board
7 and authorized by the Department, covering proficiency in the
8 English language and such academic areas as the Board may deem
9 essential to a satisfactory pharmacy curriculum and by rule
10 prescribe. Any applicant who submits to and fails to pass the
11 preliminary diagnostic examination may be required to satisfy
12 the Board that he has taken additional remedial work previously
13 approved by the Board to correct deficiencies in his
14 pharmaceutical education indicated by the results of the last
15 preliminary diagnostic examination prior to taking the
16 preliminary diagnostic examination again.

17 Any applicant who has graduated from a first professional
18 degree program in pharmacy of at least 5 academic years from a
19 school or college of pharmacy, which at the time of such
20 graduation was not recognized and approved as reputable and in
21 good standing by the Department, shall complete a clinical
22 program previously approved by the Board on the basis of its
23 equivalence to programs that are components of first
24 professional degree programs in pharmacy approved by the
25 Department.

26 Any person required by Section 6 to submit to a preliminary
27 diagnostic examination in advance of admittance to an
28 examination for registration as a registered pharmacist under
29 this Act shall be permitted to take such preliminary diagnostic
30 examination, provided that he is not less than 21 years of age
31 and furnishes the Department with satisfactory evidence that he
32 has: successfully completed a program of preprofessional
33 education (postsecondary school) consisting of course work
34 equivalent to that generally required for admission to U.S.
35 colleges of pharmacy recognized and approved as reputable and
36 in good standing by the Department; and has received a degree

1 in pharmacy as required in this Section.

2 The Department shall issue a license as a registered
3 pharmacist to any applicant who has qualified as aforesaid and
4 who has filed the required applications and paid the required
5 fees in connection therewith; and such registrant shall have
6 the authority to practice the profession of pharmacy in this
7 State.

8 (Source: P.A. 85-796.)

9 (225 ILCS 85/10) (from Ch. 111, par. 4130)

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

11 Sec. 10. State Board of Pharmacy. There is created in the
12 Department the State Board of Pharmacy. It shall consist of 9
13 members, 7 of whom shall be licensed pharmacists. Each of those
14 7 members must be a licensed pharmacist in good standing in
15 this State, a graduate of an accredited college of pharmacy or
16 hold a Bachelor of Science degree in Pharmacy and have at least
17 5 years' practical experience in the practice of pharmacy
18 subsequent to the date of his licensure as a licensed
19 pharmacist in the State of Illinois. There shall be 2 public
20 members, who shall be voting members, who shall not be licensed
21 pharmacists in this State or any other state.

22 Each member shall be appointed by the Governor.

23 The terms of all members serving as of March 31, 1999 shall
24 expire on that date. The Governor shall appoint 3 persons to
25 serve one-year terms, 3 persons to serve 3-year terms, and 3
26 persons to serve 5-year terms to begin April 1, 1999.
27 Otherwise, members shall be appointed to 5 year terms. No
28 member shall be eligible to serve more than 12 consecutive
29 years.

30 In making the appointment of members on the Board, the
31 Governor shall give due consideration to recommendations by the
32 members of the profession of pharmacy and by pharmaceutical
33 organizations therein. The Governor shall notify the
34 pharmaceutical organizations promptly of any vacancy of
35 members on the Board and in appointing members shall give

1 consideration to individuals engaged in all types and settings
2 of pharmacy practice.

3 The Governor may remove any member of the Board for
4 misconduct, incapacity or neglect of duty and he shall be the
5 sole judge of the sufficiency of the cause for removal.

6 Every person appointed a member of the Board shall take and
7 subscribe the constitutional oath of office and file it with
8 the Secretary of State. Each member of the Board shall be
9 reimbursed for such actual and legitimate expenses as he may
10 incur in going to and from the place of meeting and remaining
11 thereat during sessions of the Board. In addition, each member
12 of the Board shall receive a per diem payment in an amount
13 determined from time to time by the Director for attendance at
14 meetings of the Board and conducting other official business of
15 the Board.

16 The Board shall hold quarterly meetings and an annual
17 meeting in January of each year and such other meetings at such
18 times and places and upon such notice as the Board may
19 determine and as its business may require. Five members of the
20 Board shall constitute a quorum for the transaction of
21 business. The Director shall appoint a pharmacy coordinator,
22 who shall be someone other than a member of the Board. The
23 pharmacy coordinator shall be a registered pharmacist in good
24 standing in this State, shall be a graduate of an accredited
25 college of pharmacy, or hold at a minimum a Bachelor of Science
26 degree in Pharmacy and shall have at least 5 years' experience
27 in the practice of pharmacy immediately prior to his
28 appointment. The pharmacy coordinator shall be the executive
29 administrator and the chief enforcement officer of the Pharmacy
30 Practice Act of 1987.

31 The Board shall exercise the rights, powers and duties
32 which have been vested in the Board under this Act, and any
33 other duties conferred upon the Board by law.

34 The Director shall, in conformity with the Personnel Code,
35 employ not less than 7 pharmacy investigators and 2 pharmacy
36 supervisors. Each pharmacy investigator and each supervisor

1 shall be a registered pharmacist in good standing in this
2 State, and shall be a graduate of an accredited college of
3 pharmacy and have at least 5 years of experience in the
4 practice of pharmacy. ~~The Department shall also employ at least~~
5 ~~one attorney who is a pharmacist to prosecute violations of~~
6 ~~this Act and its rules.~~ The Department may, in conformity with
7 the Personnel Code, employ such clerical and other employees as
8 are necessary to carry out the duties of the Board.

9 The duly authorized pharmacy investigators of the
10 Department shall have the right to enter and inspect during
11 business hours any pharmacy or any other place in the State of
12 Illinois holding itself out to be a pharmacy where medicines or
13 drugs or drug products or proprietary medicines are sold,
14 offered for sale, exposed for sale, or kept for sale. ~~The~~
15 ~~pharmacy investigators shall be the only Department~~
16 ~~investigators authorized to inspect, investigate, and monitor~~
17 ~~probation compliance of pharmacists, pharmacies, and pharmacy~~
18 ~~technicians.~~

19 (Source: P.A. 91-827, eff. 6-13-00; 92-651, eff. 7-11-02;
20 92-880, eff. 1-1-04.)

21 (225 ILCS 85/22a)

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

23 Sec. 22a. Automated dispensing and storage systems. The
24 Department shall establish rules governing the use of automated
25 dispensing and storage systems by Division I, II, III, and
26 ~~through~~ V pharmacies. Automated dispensing and storage systems
27 shall not be used in Division IV pharmacies.

28 (Source: P.A. 90-253, eff. 7-29-97.)

29 (225 ILCS 85/30) (from Ch. 111, par. 4150)

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

31 Sec. 30. (a) In accordance with Section 11 of this Act, the
32 Department may refuse to issue, restore, or renew, or may
33 revoke, suspend, place on probation, reprimand or take other
34 disciplinary action as the Department may deem proper with

1 regard to any license or certificate of registration for any
2 one or combination of the following causes:

3 1. Material misstatement in furnishing information to
4 the Department.

5 2. Violations of this Act, or the rules promulgated
6 hereunder.

7 3. Making any misrepresentation for the purpose of
8 obtaining licenses.

9 4. A pattern of conduct which demonstrates
10 incompetence or unfitness to practice.

11 5. Aiding or assisting another person in violating any
12 provision of this Act or rules.

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

15 7. Engaging in dishonorable, unethical or
16 unprofessional conduct of a character likely to deceive,
17 defraud or harm the public.

18 8. Discipline by another U.S. jurisdiction or foreign
19 nation, if at least one of the grounds for the discipline
20 is the same or substantially equivalent to those set forth
21 herein.

22 9. Directly or indirectly giving to or receiving from
23 any person, firm, corporation, partnership or association
24 any fee, commission, rebate or other form of compensation
25 for any professional services not actually or personally
26 rendered.

27 10. A finding by the Department that the licensee,
28 after having his license placed on probationary status has
29 violated the terms of probation.

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

32 12. Physical illness, including but not limited to,
33 deterioration through the aging process, or loss of motor
34 skill which results in the inability to practice the
35 profession with reasonable judgment, skill or safety.

36 13. A finding that licensure or registration has been

1 applied for or obtained by fraudulent means.

2 14. The applicant, or licensee has been convicted in
3 state or federal court of any crime which is a felony or
4 any misdemeanor related to the practice of pharmacy, of
5 which an essential element is dishonesty.

6 15. Habitual or excessive use or addiction to alcohol,
7 narcotics, stimulants or any other chemical agent or drug
8 which results in the inability to practice with reasonable
9 judgment, skill or safety.

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

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

22 18. Repetitiously dispensing prescription drugs
23 without receiving a written or oral prescription.

24 19. Upon a finding of a substantial discrepancy in a
25 Department audit of a prescription drug, including
26 controlled substances, as that term is defined in this Act
27 or in the Illinois Controlled Substances Act.

28 20. Physical illness which results in the inability to
29 practice with reasonable judgment, skill or safety, or
30 mental incompetency as declared by a court of competent
31 jurisdiction.

32 21. Violation of the Health Care Worker Self-Referral
33 Act.

34 22. Failing to sell or dispense any drug, medicine, or
35 poison in good faith. "Good faith", for the purposes of
36 this Section, has the meaning ascribed to it in subsection

1 (u) of Section 102 of the Illinois Controlled Substances
2 Act.

3 23. Interfering with the professional judgment of a
4 pharmacist by any registrant under this Act, or his or her
5 agents or employees.

6 24. Willfully omitting to file or record, willfully
7 impeding the filing or recording of, or inducing another
8 person to omit to file or record medical reports as
9 required by law.

10 25. Willfully failing to report an instance of
11 suspected abuse or neglect as required by law.

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

31 If the Board finds an individual unable to practice because
32 of the reasons set forth in this subsection, the Board must
33 require the individual to submit to care, counseling, or
34 treatment by a physician or clinical psychologist approved by
35 the Board, as a condition, term, or restriction for continued,
36 reinstated, or renewed licensure to practice. In lieu of care,

1 counseling, or treatment, the Board may recommend that the
2 Department file a complaint to immediately suspend or revoke
3 the license of the individual or otherwise discipline the
4 licensee.

5 An individual whose license was granted, continued,
6 reinstated, or renewed subject to conditions, terms, or
7 restrictions, as provided for in this subsection, or any
8 individual who was disciplined or placed on supervision
9 pursuant to this subsection must be referred to the Director
10 for a determination as to whether the person shall have his or
11 her license suspended immediately, pending a hearing by the
12 Board.

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