HB5462

LRB10338877RTM69014b

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5462

Introduced 2/9/2024, by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.63	
225 ILCS 85/3	
225 ILCS 85/20	from Ch. 111, par. 4140
225 ILCS 85/24	from Ch. 111, par. 4144
305 ILCS 5/5-5.12	from Ch. 23, par. 5-5.12
225 ILCS 85/9.6 rep.	

Amends the Pharmacy Practice Act. Provides that it is the practice of pharmacy to order and administer vaccines to patients 7 years of age and older for COVID-19 or influenza subcutaneously, intramuscularly, or orally as authorized, approved, or licensed by the United States Food and Drug Administration or in accordance with the United States Centers for Disease Control and Prevention's Recommended Immunization Schedule or the United States Centers for Disease Control and Prevention's Health Information for International Travel (rather than as authorized, approved, or licensed by the United States Food and Drug Administration). Provides that a pharmacist who is exercising his or her professional judgment may change the quantity of medication prescribed if specified conditions are satisfied. Provides that a pharmacist may change the dosage form of a prescription if it is in the best interest of patient care, so long as the prescriber's directions are also modified to equate to an equivalent amount of drug dispensed as prescribed. Provides that a pharmacist may complete missing information on a prescription if there is evidence to support the change. Repeals provisions concerning the administration of vaccines, tests, and therapeutics by registered pharmacy technicians and student pharmacists. Makes other changes. Amends the Illinois Insurance Code and the Medical Assistance Article of the Illinois Public Aid Code. Provides that the ordering and administration of vaccines by a pharmacist as part of the practice of pharmacy shall be covered and reimbursed under the medical assistance program and by other insurers at no less than the rate that the vaccine is reimbursed at when ordered and administered by a licensed physician.

LRB103 38877 RTM 69014 b

A BILL FOR

AN ACT concerning regulation.

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

Section 5. The Illinois Insurance Code is amended by changing Section 356z.63 as follows:

(215 ILCS 5/356z.63)

Sec. 356z.63 ~~356z.61~~. Coverage of pharmacy testing, screening, vaccinations, and treatment.

(a) A group or individual policy of accident and health insurance or a managed care plan that is amended, delivered, issued, or renewed on or after January 1, 2025 shall provide coverage for health care or patient care services provided by a pharmacist if:

(1) the pharmacist meets the requirements and scope of practice described in paragraph (15), (16), or (17) of subsection (d) of Section 3 of the Pharmacy Practice Act;

(2) the health plan provides coverage for the same service provided by a licensed physician, an advanced practice registered nurse, or a physician assistant;

(3) the pharmacist is included in the health benefit plan's network of participating providers; and

(4) reimbursement has been successfully negotiated in good faith between the pharmacist and the health plan.

(b) Vaccines ordered and administered by a pharmacist as described in subsection (d) of Section 3 of the Pharmacy Practice Act shall be covered and reimbursed at no less than the rate that the vaccine is reimbursed at when ordered and administered by a physician licensed to practice medicine in all its branches.

(Source: P.A. 103-1, eff. 4-27-23; revised 8-29-23.)

Section 10. The Pharmacy Practice Act is amended by changing Sections 3, 20, and 24 as follows:

(225 ILCS 85/3)

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

Sec. 3. Definitions. For the purpose of this Act, except where otherwise limited therein:

(a) "Pharmacy" or "drugstore" means and includes every store, shop, pharmacy department, or other place where pharmacist care is provided by a pharmacist (1) where drugs, medicines, or poisons are dispensed, sold or offered for sale at retail, or displayed for sale at retail; or (2) where prescriptions of physicians, dentists, advanced practice registered nurses, physician assistants, veterinarians, podiatric physicians, or optometrists, within the limits of their licenses, are compounded, filled, or dispensed; or (3) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words

"Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore", "Medicine Store", "Prescriptions", "Drugs", "Dispensary", "Medicines", or any word or words of similar or like import, either in the English language or any other language; or (4) where the characteristic prescription sign (Rx) or similar design is exhibited; or (5) any store, or shop, or other place with respect to which any of the above words, objects, signs or designs are used in any advertisement.

(b) "Drugs" means and includes (1) articles recognized in the official United States Pharmacopoeia/National Formulary (USP/NF), or any supplement thereto and being intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (2) all other articles intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (3) articles (other than food) having for their main use and intended to affect the structure or any function of the body of man or other animals; and (4) articles having for their main use and intended for use as a component or any articles specified in clause (1), (2) or (3); but does

not include devices or their components, parts or accessories.

(c) "Medicines" means and includes all drugs intended for human or veterinary use approved by the United States Food and Drug Administration.

(d) "Practice of pharmacy" means:

(1) the interpretation and the provision of assistance in the monitoring, evaluation, and implementation of prescription drug orders;

(2) the dispensing of prescription drug orders;

(3) participation in drug and device selection;

(4) drug administration limited to the administration of oral, topical, injectable, and inhalation as follows:

(A) in the context of patient education on the proper use or delivery of medications;

(B) vaccination of patients 7 years of age and older pursuant to a valid prescription or standing order, by a physician licensed to practice medicine in all its branches, except for vaccinations covered by paragraph (15), upon completion of appropriate training, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures. Eligible vaccines are those listed on the U.S. Centers for Disease Control and Prevention (CDC)

Recommended Immunization Schedule, the CDC's Health Information for International Travel, or the U.S. Food and Drug Administration's Vaccines Licensed and Authorized for Use in the United States. As applicable to the State's Medicaid program and other payers, vaccines ordered and administered in accordance with this subsection shall be covered and reimbursed at no less than the rate that the vaccine is reimbursed when ordered and administered by a physician;

(B-5) following the initial administration of long-acting or extended-release form opioid antagonists by a physician licensed to practice medicine in all its branches, administration of injections of long-acting or extended-release form opioid antagonists for the treatment of substance use disorder, pursuant to a valid prescription by a physician licensed to practice medicine in all its branches, upon completion of appropriate training, including how to address contraindications and adverse reactions, including, but not limited to, respiratory depression and the performance of cardiopulmonary resuscitation, set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures;

(C) administration of injections of

alpha-hydroxyprogesterone caproate, pursuant to a valid prescription, by a physician licensed to practice medicine in all its branches, upon completion of appropriate training, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures; and

(D) administration of injections of long-term antipsychotic medications pursuant to a valid prescription by a physician licensed to practice medicine in all its branches, upon completion of appropriate training conducted by an Accreditation Council of Pharmaceutical Education accredited provider, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures.

(5) (blank);

(6) drug regimen review;

(7) drug or drug-related research;

(8) the provision of patient counseling;

(9) the practice of telepharmacy;

(10) the provision of those acts or services necessary to provide pharmacist care;

(11) medication therapy management;

(12) the responsibility for compounding and labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of non-prescription drugs and commercially packaged legend drugs and devices), proper and safe storage of drugs and devices, and maintenance of required records;

(13) the assessment and consultation of patients and dispensing of hormonal contraceptives;

(14) the initiation, dispensing, or administration of drugs, laboratory tests, assessments, referrals, and consultations for human immunodeficiency virus pre-exposure prophylaxis and human immunodeficiency virus post-exposure prophylaxis under Section 43.5;

(15) the ordering and administration of vaccines to ~~vaccination of~~ patients 7 years of age and older for COVID-19 or influenza subcutaneously, intramuscularly, or orally as authorized, approved, or licensed by the United States Food and Drug Administration or in accordance with the United States Centers for Disease Control and Prevention's Recommended Immunization Schedule or the United States Centers for Disease Control and Prevention's Health Information for International Travel.~~, pursuant to the following conditions:~~

~~(A) the vaccine must be authorized or licensed by the United States Food and Drug Administration;~~

~~(B) the vaccine must be ordered and administered according to the Advisory Committee on Immunization Practices standard immunization schedule;~~

~~(C) the pharmacist must complete a course of training accredited by the Accreditation Council on Pharmacy Education or a similar health authority or professional body approved by the Division of Professional Regulation;~~

~~(D) the pharmacist must have a current certificate in basic cardiopulmonary resuscitation;~~

~~(E) the pharmacist must complete, during each State licensing period, a minimum of 2 hours of immunization-related continuing pharmacy education approved by the Accreditation Council on Pharmacy Education;~~

~~(F) the pharmacist must comply with recordkeeping and reporting requirements of the jurisdiction in which the pharmacist administers vaccines, including informing the patient's primary-care provider, when available, and complying with requirements whereby the person administering a vaccine must review the vaccine registry or other vaccination records prior to administering the vaccine; and~~

~~(G) the pharmacist must inform the pharmacist's~~

~~patients who are less than 18 years old, as well as the adult caregiver accompanying the child, of the importance of a well-child visit with a pediatrician or other licensed primary-care provider and must refer patients as appropriate;~~

(16) the ordering and administration of ~~COVID-19~~ therapeutics subcutaneously, intramuscularly, or orally with notification to the patient's physician and appropriate record retention or pursuant to hospital pharmacy and therapeutics committee policies and procedures for: (i) COVID-19 (SARS-CoV 2) or other respiratory illnesses, conditions, or diseases; (ii) influenza; (iii) group A Streptococcus Pharyngitis; (iv) lice; (v) skin conditions, including ringworm and athlete's foot; (vi) respiratory syncytial virus or RSV; and (vii) other health conditions identified by a statewide public health emergency, as defined in the Illinois Emergency Management Agency Act. Eligible therapeutics are those approved, authorized, or licensed by the United States Food and Drug Administration and must be administered subcutaneously, intramuscularly, or orally in accordance with that approval, authorization, or licensing; and

(17) the ordering and administration of tests and screenings for (i) influenza, (ii) SARS-CoV 2 ~~SARS-COV 2~~, and (iii) group A Streptococcus Pharyngitis, (iv) lice,

(v) skin conditions, including ringworm and athlete's foot, (vi) RSV, and (vii) other health conditions identified by a statewide public health emergency, as defined in the Illinois Emergency Management Agency Act, with notification to the patient's physician and appropriate record retention or pursuant to hospital pharmacy and therapeutics committee policies and procedures. Eligible tests and screenings are those approved, authorized, or licensed by the United States Food and Drug Administration and must be administered in accordance with that approval, authorization, or licensing.

A pharmacist who orders or administers tests or screenings for health conditions described in this paragraph may use a test that may guide clinical decision-making for the health condition that is waived under the federal Clinical Laboratory Improvement Amendments of 1988 and regulations promulgated thereunder or any established screening procedure that is established under a statewide protocol.

A pharmacist may delegate the administrative and technical tasks of performing a test for the health conditions described in this paragraph to a registered pharmacy technician or student pharmacist acting under the supervision of the pharmacist.

A pharmacist who performs any of the acts defined as the

practice of pharmacy in this State must be actively licensed as a pharmacist under this Act.

(e) "Prescription" means and includes any written, oral, facsimile, or electronically transmitted order for drugs or medical devices, issued by a physician licensed to practice medicine in all its branches, dentist, veterinarian, podiatric physician, or optometrist, within the limits of his or her license, by a physician assistant in accordance with subsection (f) of Section 4, or by an advanced practice registered nurse in accordance with subsection (g) of Section 4, containing the following: (1) name of the patient; (2) date when prescription was issued; (3) name and strength of drug or description of the medical device prescribed; and (4) quantity; (5) directions for use; (6) prescriber's name, address, and signature; and (7) DEA registration number where required, for controlled substances. The prescription may, but is not required to, list the illness, disease, or condition for which the drug or device is being prescribed. DEA registration numbers shall not be required on inpatient drug orders. A prescription for medication other than controlled substances shall be valid for up to 15 months from the date issued for the purpose of refills, unless the prescription states otherwise.

(f) "Person" means and includes a natural person, partnership, association, corporation, government entity, or any other legal entity.

(g) "Department" means the Department of Financial and Professional Regulation.

(h) "Board of Pharmacy" or "Board" means the State Board of Pharmacy of the Department of Financial and Professional Regulation.

(i) "Secretary" means the Secretary of Financial and Professional Regulation.

(j) "Drug product selection" means the interchange for a prescribed pharmaceutical product in accordance with Section 25 of this Act and Section 3.14 of the Illinois Food, Drug and Cosmetic Act.

(k) "Inpatient drug order" means an order issued by an authorized prescriber for a resident or patient of a facility licensed under the Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD Act, the Specialized Mental Health Rehabilitation Act of 2013, the Hospital Licensing Act, or the University of Illinois Hospital Act, or a facility which is operated by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) or the Department of Corrections.

(k-5) "Pharmacist" means an individual health care professional and provider currently licensed by this State to engage in the practice of pharmacy.

(l) "Pharmacist in charge" means the licensed pharmacist whose name appears on a pharmacy license and who is responsible for all aspects of the operation related to the

practice of pharmacy.

(m) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient in accordance with applicable State and federal laws and regulations. "Dispense" or "dispensing" does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier. "Dispense" or "dispensing" also does not mean the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

(n) "Nonresident pharmacy" means a pharmacy that is located in a state, commonwealth, or territory of the United States, other than Illinois, that delivers, dispenses, or distributes, through the United States Postal Service, commercially acceptable parcel delivery service, or other common carrier, to Illinois residents, any substance which requires a prescription.

(o) "Compounding" means the preparation and mixing of components, excluding flavorings, (1) as the result of a prescriber's prescription drug order or initiative based on the prescriber-patient-pharmacist relationship in the course

of professional practice or (2) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed dispensing patterns. Commercially available products may be compounded for dispensing to individual patients only if all of the following conditions are met: (i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet the patient's needs and (ii) the prescribing practitioner has requested that the drug be compounded.

(p) (Blank).

(q) (Blank).

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist under the supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. "Patient counseling" may include without limitation (1) obtaining a medication history; (2) acquiring a patient's allergies and health conditions; (3) facilitation of the patient's understanding of the intended use of the medication; (4) proper directions for use; (5) significant potential adverse events; (6) potential food-drug interactions; and (7) the need to be compliant with the medication therapy. A

pharmacy technician may only participate in the following aspects of patient counseling under the supervision of a pharmacist: (1) obtaining medication history; (2) providing the offer for counseling by a pharmacist or student pharmacist; and (3) acquiring a patient's allergies and health conditions.

(s) "Patient profiles" or "patient drug therapy record" means the obtaining, recording, and maintenance of patient prescription information, including prescriptions for controlled substances, and personal information.

(t) (Blank).

(u) "Medical device" or "device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician". A seller of goods and services who, only for the purpose of retail sales, compounds, sells, rents, or leases medical devices shall not, by reasons thereof, be required to be a licensed pharmacy.

(v) "Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable biometric or electronic identification process as approved by the Department.

(w) "Current usual and customary retail price" means the price that a pharmacy charges to a non-third-party payor.

(x) "Automated pharmacy system" means a mechanical system located within the confines of the pharmacy or remote location that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

(y) "Drug regimen review" means and includes the evaluation of prescription drug orders and patient records for (1) known allergies; (2) drug or potential therapy contraindications; (3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications; (4) reasonable directions for use; (5) potential or actual adverse drug reactions; (6) drug-drug interactions; (7) drug-food interactions; (8) drug-disease contraindications; (9) therapeutic duplication; (10) patient laboratory values when authorized and available; (11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and (12) abuse and misuse.

(z) "Electronically transmitted prescription" means a prescription that is created, recorded, or stored by electronic means; issued and validated with an electronic signature; and transmitted by electronic means directly from the prescriber to a pharmacy. An electronic prescription is not an image of a physical prescription that is transferred by electronic means from computer to computer, facsimile to

facsimile, or facsimile to computer.

(aa) "Medication therapy management services" means a distinct service or group of services offered by licensed pharmacists, physicians licensed to practice medicine in all its branches, advanced practice registered nurses authorized in a written agreement with a physician licensed to practice medicine in all its branches, or physician assistants authorized in guidelines by a supervising physician that optimize therapeutic outcomes for individual patients through improved medication use. In a retail or other non-hospital pharmacy, medication therapy management services shall consist of the evaluation of prescription drug orders and patient medication records to resolve conflicts with the following:

(1) known allergies;

(2) drug or potential therapy contraindications;

(3) reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications;

(4) reasonable directions for use;

(5) potential or actual adverse drug reactions;

(6) drug-drug interactions;

(7) drug-food interactions;

(8) drug-disease contraindications;

(9) identification of therapeutic duplication;

(10) patient laboratory values when authorized and available;

(11) proper utilization (including over or under utilization) and optimum therapeutic outcomes; and

(12) drug abuse and misuse.

"Medication therapy management services" includes the following:

(1) documenting the services delivered and communicating the information provided to patients' prescribers within an appropriate time frame, not to exceed 48 hours;

(2) providing patient counseling designed to enhance a patient's understanding and the appropriate use of his or her medications; and

(3) providing information, support services, and resources designed to enhance a patient's adherence with his or her prescribed therapeutic regimens.

"Medication therapy management services" may also include patient care functions authorized by a physician licensed to practice medicine in all its branches for his or her identified patient or groups of patients under specified conditions or limitations in a standing order from the physician.

"Medication therapy management services" in a licensed hospital may also include the following:

(1) reviewing assessments of the patient's health status; and

(2) following protocols of a hospital pharmacy and

therapeutics committee with respect to the fulfillment of medication orders.

(bb) "Pharmacist care" means the provision by a pharmacist of medication therapy management services, with or without the dispensing of drugs or devices, intended to achieve outcomes that improve patient health, quality of life, and comfort and enhance patient safety.

(cc) "Protected health information" means individually identifiable health information that, except as otherwise provided, is:

(1) transmitted by electronic media;

(2) maintained in any medium set forth in the definition of "electronic media" in the federal Health Insurance Portability and Accountability Act; or

(3) transmitted or maintained in any other form or medium.

"Protected health information" does not include individually identifiable health information found in:

(1) education records covered by the federal Family Educational Right and Privacy Act; or

(2) employment records held by a licensee in its role as an employer.

(dd) "Standing order" means a specific order for a patient or group of patients issued by a physician licensed to practice medicine in all its branches in Illinois.

(ee) "Address of record" means the designated address

recorded by the Department in the applicant's application file or licensee's license file maintained by the Department's licensure maintenance unit.

(ff) "Home pharmacy" means the location of a pharmacy's primary operations.

(gg) "Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department's licensure maintenance unit.

(Source: P.A. 102-16, eff. 6-17-21; 102-103, eff. 1-1-22; 102-558, eff. 8-20-21; 102-813, eff. 5-13-22; 102-1051, eff. 1-1-23; 103-1, eff. 4-27-23.)

(225 ILCS 85/20) (from Ch. 111, par. 4140)

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

Sec. 20. Dispensing systems.

(a) Two or more pharmacies may establish and use a common electronic file to maintain required dispensing information.

(b) Pharmacies using such a common electronic file are not required to physically transfer prescriptions or information for dispensing purposes between or among pharmacies participating in the same common prescription file; provided, however any such common file must contain complete and adequate records of such prescription and refill dispensed as stated in Section 18.

(c) The Department may formulate such rules, not

inconsistent with law, as may be necessary to carry out the purposes of and to enforce the provisions of this Section within the following exception: The Department shall not impose greater requirements on either common electronic files or a hard copy record system.

(d) Drugs shall in no event be dispensed more frequently or in larger amounts than the prescriber ordered without direct prescriber authorization by way of a new prescription order.

(e) The dispensing by a pharmacist licensed in this State or another state of a prescription contained in a common database shall not constitute a transfer, provided that (1) all pharmacies involved in the transactions pursuant to which the prescription is dispensed and all pharmacists engaging in dispensing functions are properly licensed, permitted, or registered in this State or another jurisdiction, (2) a policy and procedures manual that governs all participating pharmacies and pharmacists is available to the Department upon request and includes the procedure for maintaining appropriate records for regulatory oversight for tracking a prescription during each stage of the filling and dispensing process, and (3) the pharmacists involved in filling and dispensing the prescription and counseling the patient are identified. A pharmacist shall be accountable only for the specific tasks performed.

(f) Nothing in this Section shall prohibit a pharmacist

who is exercising his or her professional judgment from dispensing additional quantities of medication up to the total number of dosage units authorized by the prescriber on the original prescription and any refills.

(g) A pharmacist who is exercising his or her professional judgment may change the quantity of medication prescribed if:

(1) the prescribed quantity or package size is not commercially available;

(2) the change in quantity is related to a change in dosage form, strength, or therapeutic interchange;

(3) the change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program; and

(4) the change to add missing non-pharmaceutical devices or durable medical equipment that aid in the appropriate clinical usage of a medication or achieving a positive therapeutic outcome.

A pharmacist may change the dosage form of a prescription if it is in the best interest of patient care, so long as the prescriber's directions are also modified to equate to an equivalent amount of drug dispensed as prescribed.

A pharmacist may complete missing information on a prescription if evidence supports the change.

The change must be documented in the patient's record.

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

(225 ILCS 85/24) (from Ch. 111, par. 4144)

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

Sec. 24. It shall be unlawful for any manufacturer or distributor of a prescription drug, or any person on behalf of such manufacturer or distributor, to distribute a prescription drug without charge or for less than its fair market value to any person directly or indirectly.

Nothing in this Section shall be construed to prohibit the distribution of a prescription drug:

(a) at a discount in accordance with the laws of the United States or the State of Illinois;

(b) to a person for use in an investigation conducted under Federal Food and Drug Administration regulations;

(c) to a patient by a pharmacist in response to a request written and signed by a medical practitioner which designates the quantity to be distributed;

(d) to a licensed medical practitioner in response to a request signed by the practitioner which designates the quantity to be distributed;

(e) to an agency of the federal government or to a state government or political subdivision for regulatory or enforcement purposes;

(f) in an emergency as determined by the laws of the United States or the State of Illinois; or

(g) to a bona fide charity authorized to possess and dispense prescription drugs.

It shall be unlawful to require a pharmacist or pharmacy to dispense a prescription drug below fair market value, including the cost of dispensing. Any payor that reimburses a pharmacy below fair market value, including the cost of dispensing, shall not be able to include this pharmacy towards any network adequacy requirements and shall not be in compliance with any willing provider provisions.

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

Section 15. The Illinois Public Aid Code is amended by changing Section 5-5.12 as follows:

(305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

Sec. 5-5.12. Pharmacy payments.

(a) Every request submitted by a pharmacy for reimbursement under this Article for prescription drugs provided to a recipient of aid under this Article shall include the name of the prescriber or an acceptable identification number as established by the Department.

(b) Pharmacies providing prescription drugs under this Article shall be reimbursed at a rate which shall include a professional dispensing fee as determined by the Illinois Department, plus the current acquisition cost of the prescription drug dispensed. The Illinois Department shall update its information on the acquisition costs of all prescription drugs no less frequently than every 30 days.

However, the Illinois Department may set the rate of reimbursement for the acquisition cost, by rule, at a percentage of the current average wholesale acquisition cost.

(c) (Blank).

(d) The Department shall review utilization of narcotic medications in the medical assistance program and impose utilization controls that protect against abuse.

(e) When making determinations as to which drugs shall be on a prior approval list, the Department shall include as part of the analysis for this determination, the degree to which a drug may affect individuals in different ways based on factors including the gender of the person taking the medication.

(f) The Department shall cooperate with the Department of Public Health and the Department of Human Services Division of Mental Health in identifying psychotropic medications that, when given in a particular form, manner, duration, or frequency (including "as needed") in a dosage, or in conjunction with other psychotropic medications to a nursing home resident or to a resident of a facility licensed under the ID/DD Community Care Act or the MC/DD Act, may constitute a chemical restraint or an "unnecessary drug" as defined by the Nursing Home Care Act or Titles XVIII and XIX of the Social Security Act and the implementing rules and regulations. The Department shall require prior approval for any such medication prescribed for a nursing home resident or to a resident of a facility licensed under the ID/DD Community Care

Act or the MC/DD Act, that appears to be a chemical restraint or an unnecessary drug. The Department shall consult with the Department of Human Services Division of Mental Health in developing a protocol and criteria for deciding whether to grant such prior approval.

(g) The Department may by rule provide for reimbursement of the dispensing of a 90-day supply of a generic or brand name, non-narcotic maintenance medication in circumstances where it is cost effective.

(g-5) On and after July 1, 2012, the Department may require the dispensing of drugs to nursing home residents be in a 7-day supply or other amount less than a 31-day supply. The Department shall pay only one dispensing fee per 31-day supply.

(h) Effective July 1, 2011, the Department shall discontinue coverage of select over-the-counter drugs, including analgesics and cough and cold and allergy medications.

(h-5) On and after July 1, 2012, the Department shall impose utilization controls, including, but not limited to, prior approval on specialty drugs, oncolytic drugs, drugs for the treatment of HIV or AIDS, immunosuppressant drugs, and biological products in order to maximize savings on these drugs. The Department may adjust payment methodologies for non-pharmacy billed drugs in order to incentivize the selection of lower-cost drugs. For drugs for the treatment of

AIDS, the Department shall take into consideration the potential for non-adherence by certain populations, and shall develop protocols with organizations or providers primarily serving those with HIV/AIDS, as long as such measures intend to maintain cost neutrality with other utilization management controls such as prior approval. For hemophilia, the Department shall develop a program of utilization review and control which may include, in the discretion of the Department, prior approvals. The Department may impose special standards on providers that dispense blood factors which shall include, in the discretion of the Department, staff training and education; patient outreach and education; case management; in-home patient assessments; assay management; maintenance of stock; emergency dispensing timeframes; data collection and reporting; dispensing of supplies related to blood factor infusions; cold chain management and packaging practices; care coordination; product recalls; and emergency clinical consultation. The Department may require patients to receive a comprehensive examination annually at an appropriate provider in order to be eligible to continue to receive blood factor.

(i) On and after July 1, 2012, the Department shall reduce any rate of reimbursement for services or other payments or alter any methodologies authorized by this Code to reduce any rate of reimbursement for services or other payments in accordance with Section 5-5e.

(j) On and after July 1, 2012, the Department shall impose limitations on prescription drugs such that the Department shall not provide reimbursement for more than 4 prescriptions, including 3 brand name prescriptions, for distinct drugs in a 30-day period, unless prior approval is received for all prescriptions in excess of the 4-prescription limit. Drugs in the following therapeutic classes shall not be subject to prior approval as a result of the 4-prescription limit: immunosuppressant drugs, oncolytic drugs, anti-retroviral drugs, and, on or after July 1, 2014, antipsychotic drugs. On or after July 1, 2014, the Department may exempt children with complex medical needs enrolled in a care coordination entity contracted with the Department to solely coordinate care for such children, if the Department determines that the entity has a comprehensive drug reconciliation program.

(k) No medication therapy management program implemented by the Department shall be contrary to the provisions of the Pharmacy Practice Act.

(l) Any provider enrolled with the Department that bills the Department for outpatient drugs and is eligible to enroll in the federal Drug Pricing Program under Section 340B of the federal Public Health Service Act shall enroll in that program. No entity participating in the federal Drug Pricing Program under Section 340B of the federal Public Health Service Act may exclude fee-for-service Medicaid from their participation in that program, however, entities defined in

Section 1905(l)(2)(B) of the Social Security Act are excluded from this requirement. This subsection does not apply to outpatient drugs billed to Medicaid managed care organizations.

(m) Notwithstanding any other provision of this Code to the contrary, vaccines ordered and administered by a pharmacist as described in subsection (d) of Section 3 of the Pharmacy Practice Act shall be covered and reimbursed at no less than the rate that the vaccine is reimbursed at when ordered and administered by a physician licensed to practice medicine in all its branches.

(Source: P.A. 102-558, eff. 8-20-21; 102-778, eff. 7-1-22.)

(225 ILCS 85/9.6 rep.)

Section 20. The Pharmacy Practice Act is amended by repealing Section 9.6.