

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

10 Section 15. Penalties. A violation of this Act is a  
11 ground 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  
16 for hearing to the applicant or licensee may deny, suspend,  
17 or revoke a permit to establish a hospital or deny, suspend,  
18 or 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  
21 Act, ~~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  
25 by personal service setting forth the particular reasons for  
26 the proposed action and fixing a date, not less than 15 days  
27 from the date of such mailing or service, at which time the  
28 applicant or licensee shall be given an opportunity for a

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

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

29 (d) The Director or Hearing Officer shall upon his own  
30 motion, or on the written request of any party to the  
31 proceeding, issue subpoenas requiring the attendance and the  
32 giving of testimony by witnesses, and subpoenas duces tecum  
33 requiring the production of books, papers, records, or  
34 memoranda. All subpoenas and subpoenas duces tecum issued

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

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

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

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

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

3 (225 ILCS 85/30) (from Ch. 111, par. 4150)

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

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

11 1. Material misstatement in furnishing information  
12 to the Department.

13 2. Violations of this Act, or the rules promulgated  
14 hereunder.

15 3. Making any misrepresentation for the purpose of  
16 obtaining licenses.

17 4. A pattern of conduct which demonstrates  
18 incompetence or unfitness to practice.

19 5. Aiding or assisting another person in violating  
20 any provision of this Act or rules.

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

23 7. Engaging in dishonorable, unethical or  
24 unprofessional conduct of a character likely to deceive,  
25 defraud or harm the public.

26 8. Discipline by another U.S. jurisdiction or  
27 foreign nation, if at least one of the grounds for the  
28 discipline is the same or substantially equivalent to  
29 those set forth herein.

30 9. Directly or indirectly giving to or receiving  
31 from any person, firm, corporation, partnership or  
32 association any fee, commission, rebate or other form of  
33 compensation for any professional services not actually

1 or personally rendered.

2 10. A finding by the Department that the licensee,  
3 after having his license placed on probationary status  
4 has violated the terms of probation.

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

7 12. Physical illness, including but not limited to,  
8 deterioration through the aging process, or loss of motor  
9 skill which results in the inability to practice the  
10 profession with reasonable judgment, skill or safety.

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

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

17 15. Habitual or excessive use or addiction to  
18 alcohol, narcotics, stimulants or any other chemical  
19 agent or drug which results in the inability to practice  
20 with reasonable judgment, skill or safety.

21 16. Willfully making or filing false records or  
22 reports in the practice of pharmacy, including, but not  
23 limited to false records to support claims against the  
24 medical assistance program of the Department of Public  
25 Aid under the Public Aid Code.

26 17. Gross and willful overcharging for professional  
27 services including filing false statements for collection  
28 of fees for which services are not rendered, including,  
29 but not limited to, filing false statements for  
30 collection of monies for services not rendered from the  
31 medical assistance program of the Department of Public  
32 Aid under the Public Aid Code.

33 18. Repetitiously dispensing prescription drugs  
34 without receiving a written or oral prescription.

1           19. Upon a finding of a substantial discrepancy in  
2 a Department audit of a prescription drug, including  
3 controlled substances, as that term is defined in this  
4 Act or in the Illinois Controlled Substances Act.

5           20. Physical illness which results in the inability  
6 to practice with reasonable judgment, skill or safety, or  
7 mental incompetency as declared by a court of competent  
8 jurisdiction.

9           21. Violation of the Health Care Worker  
10 Self-Referral Act.

11           22. Failing to sell or dispense any drug, medicine,  
12 or poison in good faith. "Good faith", for the purposes  
13 of this Section, has the meaning ascribed to it in  
14 subsection (u) of Section 102 of the Illinois Controlled  
15 Substances Act.

16           23. Interfering with the professional judgment of a  
17 pharmacist by any registrant under this Act, or his or  
18 her agents or employees.

19           24. Violation of the Use and Sale of Retractable  
20 Needles Act.

21           (b) The Department may refuse to issue or may suspend  
22 the license or registration of any person who fails to file a  
23 return, or to pay the tax, penalty or interest shown in a  
24 filed return, or to pay any final assessment of tax, penalty  
25 or interest, as required by any tax Act administered by the  
26 Illinois Department of Revenue, until such time as the  
27 requirements of any such tax Act are satisfied.

28           (c) The Department shall revoke the license or  
29 certificate of registration issued under the provisions of  
30 this Act or any prior Act of this State of any person who has  
31 been convicted a second time of committing any felony under  
32 the Illinois Controlled Substances Act, or who has been  
33 convicted a second time of committing a Class 1 felony under  
34 Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A

1 person whose license or certificate of registration issued  
2 under the provisions of this Act or any prior Act of this  
3 State is revoked under this subsection (c) shall be  
4 prohibited from engaging in the practice of pharmacy in this  
5 State.

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

12 (e) In any order issued in resolution of a disciplinary  
13 proceeding, in addition to any other disciplinary action, the  
14 Board may request any licensee found guilty of noncompliance  
15 with the continuing education requirements of Section 12 to  
16 pay the Department a fine not to exceed \$1000.

17 (f) The Department shall issue quarterly to the Board a  
18 status of all complaints related to the profession received  
19 by the Department.

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