SB0527

LRB094 09082 RAS 39306 b

94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0527

Introduced 2/17/2005, by Sen. Carol Ronen

SYNOPSIS AS INTRODUCED:

225 ILCS 15/2	from Ch. 111, par. 5352
225 ILCS 15/5.1 new	
225 ILCS 15/5.2 new	
225 ILCS 15/5.3 new	
225 ILCS 15/5.4 new	
225 ILCS 15/5.5 new	
225 ILCS 15/5.6 new	
225 ILCS 15/15	from Ch. 111, par. 5365
225 ILCS 65/5-10	
225 ILCS 85/3	from Ch. 111, par. 4123
225 ILCS 85/4	from Ch. 111, par. 4124
720 ILCS 570/102	from Ch. 56 1/2, par. 1102

Amends the Clinical Psychologist Licensing Act to include the certification of prescribing clinical psychologists. Provides that the Department of Financial and Professional Regulation shall certify licensed, doctoral-level psychologists to prescribe and dispense drugs in accordance with applicable State and federal laws. Sets forth application and renewal requirements, prescribing practices, controlled substance compliance requirements, and requirements concerning interaction with the State Board of Pharmacy of the Department, as the areas relate to prescribing clinical psychologists and prescriptive authority. Grants certain rulemaking authority to the Clinical Psychologist Licensing and Disciplinary Board. Makes other changes. Amends the Nursing and Advanced Practice Nursing Act, the Pharmacy Practice Act of 1987, and the Illinois Controlled Substances Act to make corresponding changes.

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FISCAL NOTE ACT
MAY APPLY

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 Clinical Psychologist Licensing Act is amended by changing Sections 2 and 15 and by adding Sections 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 as follows:

(225 ILCS 15/2) (from Ch. 111, par. 5352)

(Section scheduled to be repealed on January 1, 2007)

Sec. 2. Definitions. As used in this Act:

(1) "Department" means the Department of Professional Regulation.

(2) "Director" means the Director of Professional Regulation.

(3) "Board" means the Clinical Psychologists Licensing and Disciplinary Board appointed by the Director.

(4) "Person" means an individual, association, partnership or corporation.

(5) "Clinical psychology" means the independent evaluation, classification and treatment of mental, emotional, behavioral or nervous disorders or conditions, developmental disabilities, alcoholism and substance abuse, disorders of habit or conduct, the psychological aspects of physical illness. The practice of clinical psychology includes psychoeducational evaluation, therapy, remediation and consultation, the use of psychological and neuropsychological testing, assessment, psychotherapy, psychoanalysis, hypnosis, biofeedback, and behavioral modification when any of these are used for the purpose of preventing or eliminating psychopathology, or for the amelioration of psychological disorders of individuals or groups. "Clinical psychology" does not include the use of hypnosis by unlicensed persons pursuant to Section 3.

(6) A person represents himself to be a "clinical psychologist" within the meaning of this Act when he or she holds himself out to the public by any title or description of services incorporating the words "psychological", "psychologic", "psychologist", "psychology", or "clinical psychologist" or under such title or description offers to render or renders clinical psychological services as defined in paragraph (7) of this Section to individuals, corporations, or the public for remuneration.

(7) "Clinical psychological services" refers to any services under paragraph (5) of this Section if the words "psychological", "psychologic", "psychologist", "psychology" or "clinical psychologist" are used to describe such services by the person or organization offering to render or rendering them.

(8) "Drugs" shall have the same meaning as that term is given in the Pharmacy Practice Act of 1987.

(9) "Medicines" shall have the same meaning as that term is given in the Pharmacy Practice Act of 1987.

(10) "Prescription" means an order for a drug, laboratory test, or any medicines, devices, or treatments, including controlled substances, as defined by State law.

(11) "Prescriptive authority" means the authority to prescribe and dispense drugs, medicines, or other treatment procedures.

(12) "Prescribing clinical psychologist" means a licensed, doctoral-level psychologist who has undergone specialized training, has passed an examination accepted by the Clinical Psychologist Licensing and Disciplinary Board, and has a current certificate granting prescriptive authority issued by the Department that has not been revoked or suspended.

This Act shall not apply to persons lawfully carrying on their particular profession or business under any valid existing regulatory Act of the State.

(Source: P.A. 89-702, eff. 7-1-97; 90-473, eff. 1-1-98.)

(225 ILCS 15/5.1 new)

Sec. 5.1. Certification to prescribe drugs. The Department shall certify licensed, doctoral-level psychologists to prescribe and dispense drugs in accordance with applicable State and federal laws. The Board shall develop and implement procedures for reviewing educational and training credentials for that certification process in accordance with current standards of professional practice. The Board may seek the advice of other State agencies with relevant experience in devising the certification procedures and criteria.

(225 ILCS 15/5.2 new)

Sec. 5.2. Application requirements for prescriptive authority.

(a) The Department shall grant certification to a psychologist who applies for prescriptive authority and demonstrates by official transcript or other official evidence satisfactory to the Board all of the following:

(1) that he or she has completed a doctoral program in psychology from a regionally-accredited university or professional school or, if the program is not accredited at the time of graduation, that he or she has completed a doctoral program in psychology that meets recognized acceptable professional standards, as determined by the Board;

(2) that he or she holds a current license to practice psychology in Illinois;

(3) that he or she has completed an organized program of intensive didactic instruction, as defined by the Board, within the 5-year period immediately before the date of application, consisting of a minimum of 300 contact hours and consisting of the following core areas of instruction: (i) neuroscience, (ii) pharmacology, (iii) psychopharmacology, (iv) physiology, (v) pathophysiology, (vi) appropriate and relevant physical and laboratory

assessment, and (vii) clinical pharmacotherapeutics;

(4) that he or she has obtained supervised and relevant clinical experience sufficient to achieve competency in the treatment of a diverse patient population under the direction of qualified practitioners, as determined by the Board, within the 5-year period immediately preceding the date of application that includes the pharmacological treatment of a minimum of 100 patients under the full supervision and control of a designated qualified practitioner, who will then certify the clinical competency of the candidate for certification; and

(5) that he or she has passed a certifying examination stipulated by the Board.

(b) If the applicant completed the organized program of intensive didactic instruction required by paragraph (3) of subsection (a) more than 5 years prior to application, the Department shall grant the certification for prescriptive authority if the applicant has met the requirements specified in paragraphs (1), (2), (4), and (5) of subsection (a) and has completed 24 hours of continuing education in the 2 years immediately prior to application as specified in Section 5.3.

(225 ILCS 15/5.3 new)

Sec. 5.3. Renewal of prescriptive authority; prescriptive authority continuing education.

(a) The Board shall establish, by rule, a method for the annual renewal of prescriptive authority at the time of, or in conjunction with, the renewal of clinical psychology licenses.

(b) Each applicant for renewal of prescriptive authority shall present to the Board satisfactory evidence that demonstrates the completion of 24 hours of instruction relevant to prescriptive authority during the 2 years immediately prior to his or her application for renewal.

(225 ILCS 15/5.4 new)

Sec. 5.4. Prescribing practices.

(a) Every prescription by a prescribing clinical psychologist shall comply with all applicable State and federal laws, be identified as issued by the psychologist as a "prescribing clinical psychologist", and include the prescriber's identification number assigned by the Board.

(b) Records of all prescriptions shall be maintained in patient records.

(c) A prescribing clinical psychologist shall not delegate the prescribing of drugs to any other person.

(d) A prescribing clinical psychologist shall maintain an ongoing collaborative relationship with the health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition, and significant changes in the patient's medical or psychological condition are discussed.

(e) For the purpose of this Section:

"Collaborative relationship" means a cooperative working relationship between a prescribing clinical psychologist and a health care practitioner in the provision of patient care, including diagnosis and cooperation in the management and delivery of physical and mental health care.

"Health care practitioner" means a physician, osteopathic physician, or nurse practitioner.

(225 ILCS 15/5.5 new)

Sec. 5.5. Controlled substance prescriptive authority.

(a) When authorized to prescribe controlled substances, each prescribing clinical psychologist shall file, in a timely manner, any and all individual Drug Enforcement Agency (DEA) registrations and Board-issued identification numbers with the Board.

(b) The Board shall maintain current records of every prescribing clinical psychologist, which shall include the DEA and Board-issued identification numbers of each prescribing clinical psychologist.

(225 ILCS 15/5.6 new)

Sec. 5.6. Interaction with State Board of Pharmacy.

(a) The Clinical Psychologist Licensing and Disciplinary Board shall transmit to the State Board of Pharmacy of the Department of Financial and Professional Regulation an annual list of prescribing clinical psychologists containing all of the following information:

(1) the name of the prescribing clinical psychologist;

(2) the prescribing clinical psychologist's identification number assigned by the Clinical Psychologist Licensing and Disciplinary Board; and

(3) the effective dates of the prescribing clinical psychologist's prescriptive authority.

(b) The Clinical Psychologist Licensing and Disciplinary Board shall promptly forward to the State Board of Pharmacy the names and titles of psychologists added to or deleted from the annual list of prescribing clinical psychologists.

(c) The Clinical Psychologist Licensing and Disciplinary Board shall, in a timely manner, notify the State Board of Pharmacy of the termination, suspension, or reinstatement of a psychologist's prescriptive authority.

(225 ILCS 15/15) (from Ch. 111, par. 5365)

(Section scheduled to be repealed on January 1, 2007)

Sec. 15. Disciplinary action; grounds. The Department may refuse to issue, refuse to renew, suspend, or revoke any license, or may place on probation, censure, reprimand, or take other disciplinary action deemed appropriate by the Department, including the imposition of fines not to exceed $5000 for each violation, with regard to any license issued under the provisions of this Act for any one or a combination of the following reasons:

(1) Conviction of any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty,

or any crime that is directly related to the practice of the profession.

(2) Gross negligence in the rendering of clinical psychological services.

(3) Using fraud or making any misrepresentation in applying for a license or in passing the examination provided for in this Act.

(4) Aiding or abetting or conspiring to aid or abet a person, not a clinical psychologist licensed under this Act, in representing himself or herself as so licensed or in applying for a license under this Act.

(5) Violation of any provision of this Act or the rules promulgated thereunder.

(6) Professional connection or association with any person, firm, association, partnership or corporation holding himself, herself, themselves, or itself out in any manner contrary to this Act.

(7) Unethical, unauthorized or unprofessional conduct as defined by rule. In establishing those rules, the Department shall consider, though is not bound by, the ethical standards for psychologists promulgated by recognized national psychology associations.

(8) Aiding or assisting another person in violating any provisions of this Act or the rules promulgated thereunder.

(9) Failing to provide, within 60 days, information in response to a written request made by the Department.

(10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a clinical psychologist's inability to practice with reasonable judgment, skill or safety.

(11) Discipline by another state, territory, the District of Columbia or foreign country, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth herein.

(12) Directly or indirectly giving or receiving from any person, firm, corporation, association or partnership any fee,

commission, rebate or other form of compensation for any professional service not actually or personally rendered.

(13) A finding by the Board that the licensee, after having his or her license placed on probationary status has violated the terms of probation.

(14) Willfully making or filing false records or reports, including but not limited to, false records or reports filed with State agencies or departments.

(15) Physical illness, including but not limited to, deterioration through the aging process, mental illness or disability that results in the inability to practice the profession with reasonable judgment, skill and safety.

(16) Willfully failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

(17) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(18) Violation of the Health Care Worker Self-Referral Act.

(19) Making a material misstatement in furnishing information to the Department, any other State or federal agency, or any other entity.

The entry of an order by any circuit court establishing that any person holding a license under this Act is subject to involuntary admission or judicial admission as provided for in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension of that license. That person may have his or her license restored only upon the determination by a circuit court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient and upon the Board's recommendation to the Department that the license be restored. Where the circumstances so indicate, the

Board may recommend to the Department that it require an examination prior to restoring any license so automatically suspended.

The Department may refuse to issue or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

In enforcing this Section, the Board upon a showing of a possible violation may compel any person licensed to practice under this Act, or who has applied for licensure or certification pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians or clinical psychologists shall be those specifically designated by the Board. The Board or the Department may order the examining physician or clinical psychologist to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician or clinical psychologist. The person to be examined may have, at his or her own expense, another physician or clinical psychologist of his or her choice present during all aspects of the examination. Failure of any person to submit to a mental or physical examination, when directed, shall be grounds for suspension of a license until the person submits to the examination if the Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Board finds a person unable to practice because of the reasons set forth in this Section, the Board may require that person to submit to care, counseling or treatment by physicians or clinical psychologists approved or designated by

the Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling or treatment, the Board may recommend to the Department to file a complaint to immediately suspend, revoke or otherwise discipline the license of the person. Any person whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions or restrictions, and who fails to comply with such terms, conditions or restrictions, shall be referred to the Director for a determination as to whether the person shall have his or her license suspended immediately, pending a hearing by the Board.

In instances in which the Director immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Board within 15 days after the suspension and completed without appreciable delay. The Board shall have the authority to review the subject person's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

A person licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

(b) The Board shall prescribe, by rule, criteria for disciplining, suspending, or revoking the prescriptive authority of a prescribing clinical psychologist. The Board shall have the power and duty to require remediation, suspension, or revocation of a psychologist's prescriptive authority for a specified period of time, determined at the discretion of the Board and in accordance with State law.

(Source: P.A. 89-702, eff. 7-1-97.)

Section 10. The Nursing and Advanced Practice Nursing Act

is amended by changing Sections 5-10 and 5-15 as follows:

(225 ILCS 65/5-10)

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

Sec. 5-10. Definitions. Each of the following terms, when used in this Act, shall have the meaning ascribed to it in this Section, except where the context clearly indicates otherwise:

(a) "Department" means the Department of Professional Regulation.

(b) "Director" means the Director of Professional Regulation.

(c) "Board" means the Board of Nursing appointed by the Director.

(d) "Academic year" means the customary annual schedule of courses at a college, university, or approved school, customarily regarded as the school year as distinguished from the calendar year.

(e) "Approved program of professional nursing education" and "approved program of practical nursing education" are programs of professional or practical nursing, respectively, approved by the Department under the provisions of this Act.

(f) "Nursing Act Coordinator" means a registered professional nurse appointed by the Director to carry out the administrative policies of the Department.

(g) "Assistant Nursing Act Coordinator" means a registered professional nurse appointed by the Director to assist in carrying out the administrative policies of the Department.

(h) "Registered" is the equivalent of "licensed".

(i) "Practical nurse" or "licensed practical nurse" means a person who is licensed as a practical nurse under this Act and practices practical nursing as defined in paragraph (j) of this Section. Only a practical nurse licensed under this Act is entitled to use the title "licensed practical nurse" and the abbreviation "L.P.N.".

(j) "Practical nursing" means the performance of nursing acts requiring the basic nursing knowledge, judgement, and

skill acquired by means of completion of an approved practical nursing education program. Practical nursing includes assisting in the nursing process as delegated by and under the direction of a registered professional nurse. The practical nurse may work under the direction of a licensed physician, dentist, podiatrist, or other health care professional determined by the Department.

(k) "Registered Nurse" or "Registered Professional Nurse" means a person who is licensed as a professional nurse under this Act and practices nursing as defined in paragraph (l) of this Section. Only a registered nurse licensed under this Act is entitled to use the titles "registered nurse" and "registered professional nurse" and the abbreviation, "R.N.".

(l) "Registered professional nursing practice" includes all nursing specialities and means the performance of any nursing act based upon professional knowledge, judgment, and skills acquired by means of completion of an approved registered professional nursing education program. A registered professional nurse provides nursing care emphasizing the importance of the whole and the interdependence of its parts through the nursing process to individuals, groups, families, or communities, that includes but is not limited to: (1) the assessment of healthcare needs, nursing diagnosis, planning, implementation, and nursing evaluation; (2) the promotion, maintenance, and restoration of health; (3) counseling, patient education, health education, and patient advocacy; (4) the administration of medications and treatments as prescribed by a physician licensed to practice medicine in all of its branches, a licensed dentist, a licensed podiatrist, <u>prescribing clinical psychologist,</u> or a licensed optometrist or as prescribed by a physician assistant in accordance with written guidelines required under the Physician Assistant Practice Act of 1987 or by an advanced practice nurse in accordance with a written collaborative agreement required under the Nursing and Advanced Practice Nursing Act; (5) the coordination and management of the nursing plan of care; (6)

the delegation to and supervision of individuals who assist the registered professional nurse implementing the plan of care; and (7) teaching and supervision of nursing students. The foregoing shall not be deemed to include those acts of medical diagnosis or prescription of therapeutic or corrective measures that are properly performed only by physicians licensed in the State of Illinois.

(m) "Current nursing practice update course" means a planned nursing education curriculum approved by the Department consisting of activities that have educational objectives, instructional methods, content or subject matter, clinical practice, and evaluation methods, related to basic review and updating content and specifically planned for those nurses previously licensed in the United States or its territories and preparing for reentry into nursing practice.

(n) "Professional assistance program for nurses" means a professional assistance program that meets criteria established by the Board of Nursing and approved by the Director, which provides a non-disciplinary treatment approach for nurses licensed under this Act whose ability to practice is compromised by alcohol or chemical substance addiction.

(Source: P.A. 90-61, eff. 12-30-97; 90-248, eff. 1-1-98; 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

Section 15. The Pharmacy Practice Act of 1987 is amended by changing Sections 3 and 4 as follows:

(225 ILCS 85/3) (from Ch. 111, par. 4123)

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

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 pharmaceutical 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, veterinarians, podiatrists, prescribing clinical psychologists, or therapeutically certified 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", "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 (l) 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 (l), (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 the provision of

pharmaceutical care to patients as determined by the pharmacist's professional judgment in the following areas, which may include but are not limited to (1) patient counseling, (2) interpretation and assisting in the monitoring of appropriate drug use and prospective drug utilization review, (3) providing information on the therapeutic values, reactions, drug interactions, side effects, uses, selection of medications and medical devices, and outcome of drug therapy, (4) participation in drug selection, drug monitoring, drug utilization review, evaluation, administration, interpretation, application of pharmacokinetic and laboratory data to design safe and effective drug regimens, (5) drug research (clinical and scientific), and (6) compounding and dispensing of drugs and medical devices.

(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, <u>prescribing clinical psychologist,</u> or podiatrist, or therapeutically certified optometrist, within the limits of their licenses, by a physician assistant in accordance with subsection (f) of Section 4, or by an advanced practice nurse in accordance with subsection (g) of Section 4, containing the following: (l) 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 number where required, for controlled substances. DEA numbers shall not be required on inpatient drug orders.

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

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

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

(i) "Director" means the Director of 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 or the Hospital Licensing Act, or "An Act in relation to the founding and operation of the University of Illinois Hospital and the conduct of University of Illinois health care programs", approved July 3, 1931, as amended, 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" means the delivery of drugs and medical devices, in accordance with applicable State and federal laws and regulations, to the patient or the patient's representative authorized to receive these products, including the preparation, compounding, packaging, and labeling necessary for delivery, computer entry, and verification of medication orders and prescriptions, and any recommending or advising concerning the contents and therapeutic values and uses thereof. "Dispense" 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" 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) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(o) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or medical device: (1) as the result of a practitioner's prescription drug order or initiative that is dispensed pursuant to a prescription in the course of professional practice; or (2) for the purpose of, or incident to, research, teaching, or chemical analysis; or (3) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(p) "Confidential information" means information, maintained by the pharmacist in the patient's records, released only (i) to the patient or, as the patient directs, to other practitioners and other pharmacists or (ii) to any other person authorized by law to receive the information.

(q) "Prospective drug review" or "drug utilization evaluation" means a screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist under the direct 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. The offer to counsel by the pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or student pharmacist, shall be made in a face-to-face

communication with the patient or patient's representative unless, in the professional judgment of the pharmacist, a face-to-face communication is deemed inappropriate or unnecessary. In that instance, the offer to counsel or patient counseling may be made in a written communication, by telephone, or in a manner determined by the pharmacist to be appropriate.

(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) "Pharmaceutical care" includes, but is not limited to, the act of monitoring drug use and other patient care services intended to achieve outcomes that improve the patient's quality of life but shall not include the sale of over-the-counter drugs by a seller of goods and services who does not dispense prescription drugs.

(u) "Medical 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 individual biometric or electronic identification process as approved by the Department.

(Source: P.A. 92-880, eff. 1-1-04; 93-571, eff. 8-20-03; 93-1075, eff. 1-18-05.)

(225 ILCS 85/4) (from Ch. 111, par. 4124)

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

Sec. 4. Exemptions. Nothing contained in any Section of

this Act shall apply to, or in any manner interfere with:

(a) the lawful practice of any physician licensed to practice medicine in all of its branches, dentist, podiatrist, veterinarian, prescribing clinical psychologist, or therapeutically or diagnostically certified optometrist within the limits of his or her license, or prevent him or her from supplying to his or her bona fide patients such drugs, medicines, or poisons as may seem to him appropriate;

(b) the sale of compressed gases;

(c) the sale of patent or proprietary medicines and household remedies when sold in original and unbroken packages only, if such patent or proprietary medicines and household remedies be properly and adequately labeled as to content and usage and generally considered and accepted as harmless and nonpoisonous when used according to the directions on the label, and also do not contain opium or coca leaves, or any compound, salt or derivative thereof, or any drug which, according to the latest editions of the following authoritative pharmaceutical treatises and standards, namely, The United States Pharmacopoeia/National Formulary (USP/NF), the United States Dispensatory, and the Accepted Dental Remedies of the Council of Dental Therapeutics of the American Dental Association or any or either of them, in use on the effective date of this Act, or according to the existing provisions of the Federal Food, Drug, and Cosmetic Act and Regulations of the Department of Health and Human Services, Food and Drug Administration, promulgated thereunder now in effect, is designated, described or considered as a narcotic, hypnotic, habit forming, dangerous, or poisonous drug;

(d) the sale of poultry and livestock remedies in original and unbroken packages only, labeled for poultry and livestock medication;

(e) the sale of poisonous substances or mixture of poisonous substances, in unbroken packages, for nonmedicinal use in the arts or industries or for insecticide purposes; provided, they are properly and adequately labeled as to

content and such nonmedicinal usage, in conformity with the provisions of all applicable federal, state and local laws and regulations promulgated thereunder now in effect relating thereto and governing the same, and those which are required under such applicable laws and regulations to be labeled with the word "Poison", are also labeled with the word "Poison" printed thereon in prominent type and the name of a readily obtainable antidote with directions for its administration;

(f) the delegation of limited prescriptive authority by a physician licensed to practice medicine in all its branches to a physician assistant under Section 7.5 of the Physician Assistant Practice Act of 1987. This delegated authority may but is not required to include prescription of Schedule III, IV, or V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, in accordance with written guidelines under Section 7.5 of the Physician Assistant Practice Act of 1987; and

(g) The delegation of limited prescriptive authority by a physician licensed to practice medicine in all its branches to an advanced practice nurse in accordance with a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act. This delegated authority may but is not required to include the prescription of Schedule III, IV, or V controlled substances as defined in Article II of the Illinois Controlled Substances Act.

(Source: P.A. 90-116, eff. 7-14-97; 90-253, eff. 7-29-97; 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

Section 20. The Illinois Controlled Substances Act is amended by changing Section 102 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as

to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient, research subject, or animal (as defined by the Humane Euthanasia in Animal Shelters Act) by:

(1) a practitioner (or, in his presence, by his authorized agent),

(2) the patient or research subject at the lawful direction of the practitioner, or

(3) a euthanasia technician as defined by the Humane Euthanasia in Animal Shelters Act.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

(i) boldenone,

(ii) chlorotestosterone,

(iii) chostebol,

(iv) dehydrochlormethyltestosterone,

(v) dihydrotestosterone,

(vi) drostanolone,

(vii) ethylestrenol,

(viii) fluoxymesterone,

(ix) formebulone,

(x) mesterolone,

(xi) methandienone,

(xii) methandranone,

(xiii) methandriol,

(xiv) methandrostenolone,

(xv) methenolone,

(xvi) methyltestosterone,

(xvii) mibolerone,

(xviii) nandrolone,

(xix) norethandrolone,

(xx) oxandrolone,

(xxi) oxymesterone,

(xxii) oxymetholone,

(xxiii) stanolone,

(xxiv) stanozolol,

(xxv) testolactone,

(xxvi) testosterone,

(xxvii) trenbolone, and

(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

(g) "Counterfeit substance" means a controlled substance, which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) "Department of State Police" means the Department of State Police of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Professional Regulation" means the Department of Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Department, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the

central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Department, after investigation, has found to have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(n) (Blank).

(o) "Director" means the Director of the Department of State Police or the Department of Professional Regulation or his designated agents.

(p) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a prescriber, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(t-5) "Euthanasia agency" means an entity certified by the Department of Professional Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess,

and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(t-10) "Euthanasia drugs" means Schedule II or Schedule III substances (nonnarcotic controlled substances) that are used by a euthanasia agency for the purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

(1) lack of consistency of doctor-patient relationship,

(2) frequency of prescriptions for same drug by one prescriber for large numbers of patients,

(3) quantities beyond those normally prescribed,

(4) unusual dosages,

(5) unusual geographic distances between patient, pharmacist and prescriber,

(6) consistent prescribing of habit-forming drugs.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(v) "Immediate precursor" means a substance:

(1) which the Department has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

(a) statements made by the owner or person in control of the substance concerning its nature, use or effect;

(b) statements made to the buyer or recipient that the substance may be resold for profit;

(c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;

(d) whether the distribution or attempted distribution

included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

(1) by an ultimate user, the preparation or compounding of a controlled substance for his own use; or

(2) by a practitioner, or his authorized agent under

his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:

(a) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(z-1) "Methamphetamine manufacturing chemical" means any of the following chemicals or substances containing any of the following chemicals: benzyl methyl ketone, ephedrine, methyl benzyl ketone, phenylacetone, phenyl-2-propanone, pseudoephedrine, or red phosphorous or any of the salts, optical isomers, or salts of optical isomers of the above-listed chemicals.

(aa) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salts, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine or ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers).

(bb) "Nurse" means a registered nurse licensed under the Nursing and Advanced Practice Nursing Act.

(cc) (Blank).

(dd) "Opiate" means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction sustaining liability.

(ee) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act of 1987.

(jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, podiatrist, <u>prescribing clinical psychologist,</u> veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written

prescription upon which the designated drug has been indicated prior to the time of issuance.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, podiatrist, prescribing clinical psychologist, or veterinarian who issues a prescription, a physician assistant who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(nn) "Prescription" means a lawful written, facsimile, or verbal order of a physician licensed to practice medicine in all its branches, dentist, podiatrist, prescribing clinical psychologist, or veterinarian for any controlled substance, of a physician assistant for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(oo) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(rr) "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United

States of America.

(ss) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(Source: P.A. 92-449, eff. 1-1-02; 93-596, eff. 8-26-03; 93-626, eff. 12-23-03.)