



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2343

Introduced 1/12/2006, by Sen. Bill Brady

#### SYNOPSIS AS INTRODUCED:

225 ILCS 85/3

from Ch. 111, par. 4123

225 ILCS 85/15.7 new

745 ILCS 70/3

from Ch. 111 1/2, par. 5303

Amends the Pharmacy Practice Act of 1987. Provides that a pharmacist licensed under the Act may, based on his or her personal, religious beliefs, refuse to fill a prescription for and to dispense emergency contraception. Amends the Health Care Right of Conscience Act. Adds the dispensation of prescribed medication to the list of activities included in the definition of "health care", adds pharmacist to the list of occupations included in the definition of "health care personnel", and adds pharmacy to the list of facilities included in the definition of "health care facility".

LRB094 18659 RAS 54013 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 5. The Pharmacy Practice Act of 1987 is amended by  
5 changing Section 3 and by adding Section 15.7 as follows:

6 (225 ILCS 85/3) (from Ch. 111, par. 4123)

7 (Section scheduled to be repealed on January 1, 2008)

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

10 (a) "Pharmacy" or "drugstore" means and includes every  
11 store, shop, pharmacy department, or other place where  
12 pharmaceutical care is provided by a pharmacist (1) where  
13 drugs, medicines, or poisons are dispensed, sold or offered for  
14 sale at retail, or displayed for sale at retail; or (2) where  
15 prescriptions of physicians, dentists, veterinarians,  
16 podiatrists, or therapeutically certified optometrists, within  
17 the limits of their licenses, are compounded, filled, or  
18 dispensed; or (3) which has upon it or displayed within it, or  
19 affixed to or used in connection with it, a sign bearing the  
20 word or words "Pharmacist", "Druggist", "Pharmacy",  
21 "Pharmaceutical Care", "Apothecary", "Drugstore", "Medicine  
22 Store", "Prescriptions", "Drugs", "Medicines", or any word or  
23 words of similar or like import, either in the English language  
24 or any other language; or (4) where the characteristic  
25 prescription sign (Rx) or similar design is exhibited; or (5)  
26 any store, or shop, or other place with respect to which any of  
27 the above words, objects, signs or designs are used in any  
28 advertisement.

29 (b) "Drugs" means and includes (1) articles recognized in  
30 the official United States Pharmacopoeia/National Formulary  
31 (USP/NF), or any supplement thereto and being intended for and  
32 having for their main use the diagnosis, cure, mitigation,

1 treatment or prevention of disease in man or other animals, as  
2 approved by the United States Food and Drug Administration, but  
3 does not include devices or their components, parts, or  
4 accessories; and (2) all other articles intended for and having  
5 for their main use the diagnosis, cure, mitigation, treatment  
6 or prevention of disease in man or other animals, as approved  
7 by the United States Food and Drug Administration, but does not  
8 include devices or their components, parts, or accessories; and  
9 (3) articles (other than food) having for their main use and  
10 intended to affect the structure or any function of the body of  
11 man or other animals; and (4) articles having for their main  
12 use and intended for use as a component or any articles  
13 specified in clause (1), (2) or (3); but does not include  
14 devices or their components, parts or accessories.

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

18 (d) "Practice of pharmacy" means the provision of  
19 pharmaceutical care to patients as determined by the  
20 pharmacist's professional judgment in the following areas,  
21 which may include but are not limited to (1) patient  
22 counseling, (2) interpretation and assisting in the monitoring  
23 of appropriate drug use and prospective drug utilization  
24 review, (3) providing information on the therapeutic values,  
25 reactions, drug interactions, side effects, uses, selection of  
26 medications and medical devices, and outcome of drug therapy,  
27 (4) participation in drug selection, drug monitoring, drug  
28 utilization review, evaluation, administration,  
29 interpretation, application of pharmacokinetic and laboratory  
30 data to design safe and effective drug regimens, (5) drug  
31 research (clinical and scientific), and (6) compounding and  
32 dispensing of drugs and medical devices.

33 (e) "Prescription" means and includes any written, oral,  
34 facsimile, or electronically transmitted order for drugs or  
35 medical devices, issued by a physician licensed to practice  
36 medicine in all its branches, dentist, veterinarian, or

1 podiatrist, or therapeutically certified optometrist, within  
2 the limits of their licenses, by a physician assistant in  
3 accordance with subsection (f) of Section 4, or by an advanced  
4 practice nurse in accordance with subsection (g) of Section 4,  
5 containing the following: (1) name of the patient; (2) date  
6 when prescription was issued; (3) name and strength of drug or  
7 description of the medical device prescribed; and (4) quantity,  
8 (5) directions for use, (6) prescriber's name, address and  
9 signature, and (7) DEA number where required, for controlled  
10 substances. DEA numbers shall not be required on inpatient drug  
11 orders.

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

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

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

19 (i) "Director" means the Director of Professional  
20 Regulation.

21 (j) "Drug product selection" means the interchange for a  
22 prescribed pharmaceutical product in accordance with Section  
23 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
24 Cosmetic Act.

25 (k) "Inpatient drug order" means an order issued by an  
26 authorized prescriber for a resident or patient of a facility  
27 licensed under the Nursing Home Care Act or the Hospital  
28 Licensing Act, or "An Act in relation to the founding and  
29 operation of the University of Illinois Hospital and the  
30 conduct of University of Illinois health care programs",  
31 approved July 3, 1931, as amended, or a facility which is  
32 operated by the Department of Human Services (as successor to  
33 the Department of Mental Health and Developmental  
34 Disabilities) or the Department of Corrections.

35 (k-5) "Pharmacist" means an individual health care  
36 professional and provider currently licensed by this State to

1 engage in the practice of pharmacy.

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

6 (m) "Dispense" means the delivery of drugs and medical  
7 devices, in accordance with applicable State and federal laws  
8 and regulations, to the patient or the patient's representative  
9 authorized to receive these products, including the  
10 preparation, compounding, packaging, and labeling necessary  
11 for delivery, computer entry, and verification of medication  
12 orders and prescriptions, and any recommending or advising  
13 concerning the contents and therapeutic values and uses  
14 thereof. "Dispense" does not mean the physical delivery to a  
15 patient or a patient's representative in a home or institution  
16 by a designee of a pharmacist or by common carrier. "Dispense"  
17 also does not mean the physical delivery of a drug or medical  
18 device to a patient or patient's representative by a  
19 pharmacist's designee within a pharmacy or drugstore while the  
20 pharmacist is on duty and the pharmacy is open.

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

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

34 (p) "Confidential information" means information,  
35 maintained by the pharmacist in the patient's records, released  
36 only (i) to the patient or, as the patient directs, to other

1 practitioners and other pharmacists or (ii) to any other person  
2 authorized by law to receive the information.

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

11 (r) "Patient counseling" means the communication between a  
12 pharmacist or a student pharmacist under the direct supervision  
13 of a pharmacist and a patient or the patient's representative  
14 about the patient's medication or device for the purpose of  
15 optimizing proper use of prescription medications or devices.  
16 The offer to counsel by the pharmacist or the pharmacist's  
17 designee, and subsequent patient counseling by the pharmacist  
18 or student pharmacist, shall be made in a face-to-face  
19 communication with the patient or patient's representative  
20 unless, in the professional judgment of the pharmacist, a  
21 face-to-face communication is deemed inappropriate or  
22 unnecessary. In that instance, the offer to counsel or patient  
23 counseling may be made in a written communication, by  
24 telephone, or in a manner determined by the pharmacist to be  
25 appropriate.

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

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

36 (u) "Medical device" means an instrument, apparatus,

1 implement, machine, contrivance, implant, in vitro reagent, or  
2 other similar or related article, including any component part  
3 or accessory, required under federal law to bear the label  
4 "Caution: Federal law requires dispensing by or on the order of  
5 a physician". A seller of goods and services who, only for the  
6 purpose of retail sales, compounds, sells, rents, or leases  
7 medical devices shall not, by reasons thereof, be required to  
8 be a licensed pharmacy.

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

13 (w) "Current usual and customary retail price" means the  
14 actual price that a pharmacy charges a retail purchaser.

15 (x) "Emergency contraception" means one or more  
16 prescription drugs, used separately or in combination in a  
17 non-patient specific regimen, that are prescribed and ordered  
18 by a physician licensed in this State to practice medicine in  
19 all its branches, an advanced practice nurse, or a physician  
20 assistant for a registered professional nurse that are to be  
21 administered to or self-administered by the patient in a dosage  
22 and manner for preventing pregnancy when used after  
23 intercourse, and that are found safe and effective for that use  
24 by the U.S. Food and Drug Administration and dispensed for that  
25 purpose.

26 (Source: P.A. 93-571, eff. 8-20-03; 93-1075, eff. 1-18-05;  
27 94-459, eff. 1-1-06.)

28 (225 ILCS 85/15.7 new)

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

30 Sec. 15.7. Pharmacist refusal to dispense emergency  
31 contraception. A pharmacist licensed under this Act may, based  
32 upon his or her personal, religious beliefs, refuse to fill a  
33 prescription for and to dispense emergency contraception.

34 Section 10. The Health Care Right of Conscience Act is

1 amended by changing Section 3 as follows:

2 (745 ILCS 70/3) (from Ch. 111 1/2, par. 5303)

3 Sec. 3. Definitions. As used in this Act, unless the  
4 context clearly otherwise requires:

5 (a) "Health care" means any phase of patient care,  
6 including but not limited to, testing; diagnosis; prognosis;  
7 ancillary research; instructions; family planning,  
8 counselling, referrals, or any other advice in connection with  
9 the use or procurement of contraceptives and sterilization or  
10 abortion procedures; medication; dispensation of prescribed  
11 medication; or surgery or other care or treatment rendered by a  
12 physician or physicians, nurses, paraprofessionals or health  
13 care facility, intended for the physical, emotional, and mental  
14 well-being of persons;

15 (b) "Physician" means any person who is licensed by the  
16 State of Illinois under the Medical Practice Act of 1987;

17 (c) "Health care personnel" means any nurse, nurses' aide,  
18 medical school student, professional, paraprofessional,  
19 pharmacist, or any other person who furnishes, or assists in  
20 the furnishing of, health care services;

21 (d) "Health care facility" means any public or private  
22 hospital, clinic, center, medical school, medical training  
23 institution, laboratory or diagnostic facility, physician's  
24 office, infirmary, dispensary, ambulatory surgical treatment  
25 center, pharmacy, or other institution or location wherein  
26 health care services are provided to any person, including  
27 physician organizations and associations, networks, joint  
28 ventures, and all other combinations of those organizations;

29 (e) "Conscience" means a sincerely held set of moral  
30 convictions arising from belief in and relation to God, or  
31 which, though not so derived, arises from a place in the life  
32 of its possessor parallel to that filled by God among adherents  
33 to religious faiths; and

34 (f) "Health care payer" means a health maintenance  
35 organization, insurance company, management services



1 organization, or any other entity that pays for or arranges for  
2 the payment of any health care or medical care service,  
3 procedure, or product.

4 The above definitions include not only the traditional  
5 combinations and forms of these persons and organizations but  
6 also all new and emerging forms and combinations of these  
7 persons and organizations.

8 (Source: P.A. 90-246, eff. 1-1-98.)