HB5281

LRB095 18210 RAS 44294 b

95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5281

by Rep. Charles E. Jefferson

SYNOPSIS AS INTRODUCED:

225 ILCS 25/50.5 new	
225 ILCS 60/33	from Ch. 111, par. 4400-33
225 ILCS 65/65-40	was 225 ILCS 65/15-20
225 ILCS 80/6	from Ch. 111, par. 3906
225 ILCS 85/18	from Ch. 111, par. 4138
225 ILCS 95/7.5	
225 ILCS 100/20.10 new	
225 ILCS 120/50.5 new	

Amends the Illinois Dental Practice Act, the Medical Practice Act of 1987, the Nurse Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Physician Assistant Practice Act of 1987, and the Podiatric Medical Practice Act of 1987. Provides that no licensee or registrant under the Acts shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all acceptable measures necessary to safeguard these records from unwanted release. Prohibits licensees or registrants under the Acts from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the licensee or registrant has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent. Amends the Wholesale Drug Distribution Licensing Act to prohibit the compulsion of the release of prescription records from a licensee or registrant and the receipt of prescription records without the provision of proof of a patient waiver.

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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 Illinois Dental Practice Act is amended by adding Section 50.5 as follows:

(225 ILCS 25/50.5 new)

(Section scheduled to be repealed on January 1, 2016)

Sec. 50.5. Prescription record release prohibited. No dentist shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. A dentist is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the dentist has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent.

Section 10. The Medical Practice Act of 1987 is amended by changing Section 33 as follows:

(225 ILCS 60/33) (from Ch. 111, par. 4400-33)

(Section scheduled to be repealed on December 31, 2008)

Sec. 33. Any person licensed under this Act to practice medicine in all of its branches shall be authorized to purchase legend drugs requiring an order of a person authorized to prescribe drugs, and to dispense such legend drugs in the regular course of practicing medicine. The dispensing of such legend drugs shall be the personal act of the person licensed under this Act and may not be delegated to any other person not licensed under this Act or the Pharmacy Practice Act unless such delegated dispensing functions are under the direct supervision of the physician authorized to dispense legend drugs. Except when dispensing manufacturers' samples or other legend drugs in a maximum 72 hour supply, persons licensed under this Act shall maintain a book or file of prescriptions as required in the Pharmacy Practice Act. No licensee shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. A licensee is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the licensee has obtained a release waiver from the patient for whom the prescription was initiated or the

patient's authorized agent.

Any person licensed under this Act who dispenses any drug or medicine shall dispense such drug or medicine in good faith and shall affix to the box, bottle, vessel or package containing the same a label indicating (a) the date on which such drug or medicine is dispensed; (b) the name of the patient; (c) the last name of the person dispensing such drug or medicine; (d) the directions for use thereof; and (e) the proprietary name or names or, if there are none, the established name or names of the drug or medicine, the dosage and quantity, except as otherwise authorized by regulation of the Department of Professional Regulation. The foregoing labeling requirements shall not apply to drugs or medicines in a package which bears a label of the manufacturer containing information describing its contents which is in compliance with requirements of the Federal Food, Drug, and Cosmetic Act and the Illinois Food, Drug, and Cosmetic Act. "Drug" and "medicine" have the meaning ascribed to them in the Pharmacy Practice Act, as now or hereafter amended; "good faith" has the meaning ascribed to it in subsection (v) of Section 102 of the "Illinois Controlled Substances Act", approved August 16, 1971, as amended.

Prior to dispensing a prescription to a patient, the physician shall offer a written prescription to the patient which the patient may elect to have filled by the physician or any licensed pharmacy.

A violation of any provision of this Section shall constitute a violation of this Act and shall be grounds for disciplinary action provided for in this Act.

(Source: P.A. 95-689, eff. 10-29-07.)

Section 15. The Nurse Practice Act is amended by changing Section 65-40 as follows:

(225 ILCS 65/65-40) (was 225 ILCS 65/15-20)

(Section scheduled to be repealed on January 1, 2018)

Sec. 65-40. Prescriptive authority.

(a) A collaborating physician or podiatrist may, but is not required to, delegate prescriptive authority to an advanced practice nurse as part of a written collaborative agreement. This authority may, but is not required to, include prescription of, selection of, orders for, administration of, storage of, acceptance of samples of, and dispensing over the counter medications, legend drugs, medical gases, and controlled substances categorized as Schedule III, III-N, IV, or V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, and other preparations, including, but not limited to, botanical and herbal remedies. The collaborating physician or podiatrist must have a valid current Illinois controlled substance license and federal registration to delegate authority to prescribe delegated controlled substances.

(b) To prescribe controlled substances under this Section, an advanced practice nurse must obtain a mid-level practitioner controlled substance license. Medication orders shall be reviewed periodically by the collaborating physician or podiatrist.

(c) The collaborating physician or podiatrist shall file with the Department notice of delegation of prescriptive authority and termination of such delegation, in accordance with rules of the Department. Upon receipt of this notice delegating authority to prescribe Schedule III, III-N, IV, or V controlled substances, the licensed advanced practice nurse shall be eligible to register for a mid-level practitioner controlled substance license under Section 303.05 of the Illinois Controlled Substances Act.

(d) In addition to the requirements of subsections (a), (b), and (c) of this Section, a collaborating physician may, but is not required to, delegate authority to an advanced practice nurse to prescribe Schedule II or II-N controlled substances, if all of the following conditions apply:

(1) No more than 5 Schedule II or II-N controlled substances by oral dosage may be delegated.

(2) Any delegation must be controlled substances that the collaborating physician prescribes.

(3) Any prescription must be limited to no more than a 30-day oral dosage, with any continuation authorized only after prior approval of the collaborating physician.

(4) The advanced practice nurse must discuss the condition of any patients for whom a controlled substance is prescribed monthly with the delegating physician.

(e) Nothing in this Act shall be construed to limit the delegation of tasks or duties by a physician to a licensed practical nurse, a registered professional nurse, or other persons.

(f) No advanced practice nurse with prescriptive authority shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. An advanced practice nurse with prescriptive authority is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the advanced practice nurse has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent.

(Source: P.A. 95-639, eff. 10-5-07.)

Section 20. The Illinois Optometric Practice Act of 1987 is amended by changing Section 6 as follows:

(225 ILCS 80/6) (from Ch. 111, par. 3906)

(Section scheduled to be repealed on January 1, 2017)

Sec. 6. Display of license; change of address; record of examinations and prescriptions. Every holder of a license under this Act shall display such license on a conspicuous place in the office or offices wherein such holder practices optometry and every holder shall, whenever requested, exhibit such license to any representative of the Department, and shall notify the Department of the address or addresses and of every change thereof, where such holder shall practice optometry.

Every licensed optometrist shall keep a record of examinations made and prescriptions issued, which record shall include the names of persons examined and for whom prescriptions were prepared, and shall be signed by the licensed optometrist and retained by him in the office in which such professional service was rendered. Such records shall be preserved by the optometrist for a period designated by the Department. A copy of such records shall be provided, upon written request, to the person examined, or his or her designee. No licensed optometrist shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. A licensed optometrist is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug

Distribution Licensing Act or any other pharmaceutical sales company, unless the optometrist has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent.

(Source: P.A. 94-787, eff. 5-19-06.)

Section 25. The Pharmacy Practice Act is amended by changing Section 18 as follows:

(225 ILCS 85/18) (from Ch. 111, par. 4138)

(Section scheduled to be repealed on January 1, 2018)

Sec. 18. Record retention. Except as provided in subsection (b), there shall be kept in every drugstore or pharmacy a suitable book, file, or electronic record keeping system in which shall be preserved for a period of not less than 5 years the original, or an exact, unalterable image, of every written prescription and the original transcript or copy of every verbal prescription filled, compounded, or dispensed, in such pharmacy; and such book or file of prescriptions shall at all reasonable times be open to inspection to the pharmacy coordinator and the duly authorized agents or employees of the Department.

Every prescription filled or refilled shall contain the unique identifiers of the persons authorized to practice pharmacy under the provision of this Act who fills or refills the prescription.

Records kept pursuant to this Section may be maintained in an alternative data retention system, such as a direct digital imaging system, provided that:

(1) the records maintained in the alternative data retention system contain all of the information required in a manual record;

(2) the data processing system is capable of producing a hard copy of the electronic record on the request of the Board, its representative, or other authorized local, State, or federal law enforcement or regulatory agency;

(3) the digital images are recorded and stored only by means of a technology that does not allow subsequent revision or replacement of the images; and

(4) the prescriptions may be retained in written form or recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.

As used in this Section, "digital imaging system" means a system, including people, machines, methods of organization, and procedures, that provides input, storage, processing, communications, output, and control functions for digitized representations of original prescription records.

Inpatient drug orders may be maintained within an institution in a manner approved by the Department.

No licensee or registrant shall be compelled to release prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other

pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. A licensee or registrant is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the licensee or registrant has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent.

(Source: P.A. 94-84, eff. 6-28-05; 95-689, eff. 10-29-07.)

Section 30. The Physician Assistant Practice Act of 1987 is amended by changing Section 7.5 as follows:

(225 ILCS 95/7.5)

(Section scheduled to be repealed on January 1, 2018)

Sec. 7.5. Prescriptions. A supervising physician may delegate limited prescriptive authority to a physician assistant. This authority may, but is not required to, include prescription and dispensing of legend drugs and legend controlled substances categorized as Schedule III, IV, or V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, as delegated in the written guidelines required by this Act. To prescribe Schedule III, IV, or V controlled substances under this Section, a physician assistant must obtain a mid-level practitioner controlled

substances license. Medication orders issued by a physician assistant shall be reviewed periodically by the supervising physician. The supervising physician shall file with the Department notice of delegation of prescriptive authority to a physician assistant and termination of delegation, specifying the authority delegated or terminated. Upon receipt of this notice delegating authority to prescribe Schedule III, IV, or V controlled substances, the physician assistant shall be eligible to register for a mid-level practitioner controlled substances license under Section 303.05 of the Illinois Controlled Substances Act. Nothing in this Act shall be construed to limit the delegation of tasks or duties by the supervising physician to a nurse or other appropriately trained personnel.

No physician assistant with prescriptive authority shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. A physician assistant with prescriptive authority is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the physician assistant has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized

agent.

The Department shall establish by rule the minimum requirements for written guidelines to be followed under this Section.

(Source: P.A. 90-116, eff. 7-14-97; 90-818, eff. 3-23-99.)

Section 35. The Podiatric Medical Practice Act of 1987 is amended by adding Section 20.10 as follows:

(225 ILCS 100/20.10 new)

(Section scheduled to be repealed on January 1, 2018)

Sec. 20.10. Prescription record release prohibited. No licensee shall be compelled to release his or her prescription records to any person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company and may take all measures necessary and deemed acceptable by the Department to safeguard these records from unwanted release. A licensee is prohibited from releasing any prescription record to a person or entity licensed under the Wholesale Drug Distribution Licensing Act or any other pharmaceutical sales company, unless the licensee has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent.

Section 40. The Wholesale Drug Distribution Licensing Act is amended by adding Section 50.5 as follows:

(225 ILCS 120/50.5 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 50.5. Prescription record release prohibited. No licensee under this Act shall compel or attempt to compel a prescribing agent, as that term is defined by the Department, to release prescription records. A licensee under this Act is prohibited from receiving any prescription record from a prescribing agent, unless that prescribing agent presents proof that he or she has obtained a release waiver from the patient for whom the prescription was initiated or the patient's authorized agent.