Rep. Jack D. Franks

Filed: 6/20/2007

AMENDMENT TO SENATE BILL 509

AMENDMENT NO. _____. Amend Senate Bill 509 by replacing everything after the enacting clause with the following:

"Section 5. The Regulatory Sunset Act is amended by changing Section 4.18 and by adding Section 4.28 as follows:

(5 ILCS 80/4.18)

Sec. 4.18. Acts repealed January 1, 2008 and December 31, 2008.

(a) The following Acts are repealed on January 1, 2008:

The Acupuncture Practice Act.

The Clinical Social Work and Social Work Practice Act.

The Home Medical Equipment and Services Provider License Act.

The Nursing and Advanced Practice Nursing Act.

The Illinois Speech-Language Pathology and Audiology Practice Act.

The Marriage and Family Therapy Licensing Act.

The Nursing Home Administrators Licensing and Disciplinary Act.

~~The Pharmacy Practice Act of 1987.~~

The Physician Assistant Practice Act of 1987.

The Podiatric Medical Practice Act of 1987.

The Structural Pest Control Act.

(b) The following Acts are repealed on December 31, 2008:

The Medical Practice Act of 1987.

The Environmental Health Practitioner Licensing Act.

(Source: P.A. 94-754, eff. 5-10-06; 94-1075, eff. 12-29-06; 94-1085, eff. 1-19-07; revised 1-22-07.)

(5 ILCS 80/4.28 new)

Sec. 4.28. Act repealed on January 1, 2018. The following Act is repealed on January 1, 2018:

The Pharmacy Practice Act.

Section 10. The Illinois Act on the Aging is amended by changing Section 4.01 as follows:

(20 ILCS 105/4.01) (from Ch. 23, par. 6104.01)

Sec. 4.01. Additional powers and duties of the Department. In addition to powers and duties otherwise provided by law, the Department shall have the following powers and duties:

(1) To evaluate all programs, services, and facilities for

the aged and for minority senior citizens within the State and determine the extent to which present public or private programs, services and facilities meet the needs of the aged.

(2) To coordinate and evaluate all programs, services, and facilities for the Aging and for minority senior citizens presently furnished by State agencies and make appropriate recommendations regarding such services, programs and facilities to the Governor and/or the General Assembly.

(3) To function as the sole State agency to develop a comprehensive plan to meet the needs of the State's senior citizens and the State's minority senior citizens.

(4) To receive and disburse State and federal funds made available directly to the Department including those funds made available under the Older Americans Act and the Senior Community Service Employment Program for providing services for senior citizens and minority senior citizens or for purposes related thereto, and shall develop and administer any State Plan for the Aging required by federal law.

(5) To solicit, accept, hold, and administer in behalf of the State any grants or legacies of money, securities, or property to the State of Illinois for services to senior citizens and minority senior citizens or purposes related thereto.

(6) To provide consultation and assistance to communities, area agencies on aging, and groups developing local services for senior citizens and minority senior citizens.

(7) To promote community education regarding the problems of senior citizens and minority senior citizens through institutes, publications, radio, television and the local press.

(8) To cooperate with agencies of the federal government in studies and conferences designed to examine the needs of senior citizens and minority senior citizens and to prepare programs and facilities to meet those needs.

(9) To establish and maintain information and referral sources throughout the State when not provided by other agencies.

(10) To provide the staff support as may reasonably be required by the Council and the Coordinating Committee of State Agencies Serving Older Persons.

(11) To make and enforce rules and regulations necessary and proper to the performance of its duties.

(12) To establish and fund programs or projects or experimental facilities that are specially designed as alternatives to institutional care.

(13) To develop a training program to train the counselors presently employed by the Department's aging network to provide Medicare beneficiaries with counseling and advocacy in Medicare, private health insurance, and related health care coverage plans. The Department shall report to the General Assembly on the implementation of the training program on or before December 1, 1986.

(14) To make a grant to an institution of higher learning to study the feasibility of establishing and implementing an affirmative action employment plan for the recruitment, hiring, training and retraining of persons 60 or more years old for jobs for which their employment would not be precluded by law.

(15) To present one award annually in each of the categories of community service, education, the performance and graphic arts, and the labor force to outstanding Illinois senior citizens and minority senior citizens in recognition of their individual contributions to either community service, education, the performance and graphic arts, or the labor force. The awards shall be presented to four senior citizens and minority senior citizens selected from a list of 44 nominees compiled annually by the Department. Nominations shall be solicited from senior citizens' service providers, area agencies on aging, senior citizens' centers, and senior citizens' organizations. The Department shall consult with the Coordinating Committee of State Agencies Serving Older Persons to determine which of the nominees shall be the recipient in each category of community service. The Department shall establish a central location within the State to be designated as the Senior Illinoisans Hall of Fame for the public display of all the annual awards, or replicas thereof.

(16) To establish multipurpose senior centers through area agencies on aging and to fund those new and existing

multipurpose senior centers through area agencies on aging, the establishment and funding to begin in such areas of the State as the Department shall designate by rule and as specifically appropriated funds become available.

(17) To develop the content and format of the acknowledgment regarding non-recourse reverse mortgage loans under Section 6.1 of the Illinois Banking Act; to provide independent consumer information on reverse mortgages and alternatives; and to refer consumers to independent counseling services with expertise in reverse mortgages.

(18) To develop a pamphlet in English and Spanish which may be used by physicians licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, pharmacists licensed pursuant to the Pharmacy Practice Act ~~of 1987~~, and Illinois residents 65 years of age or older for the purpose of assisting physicians, pharmacists, and patients in monitoring prescriptions provided by various physicians and to aid persons 65 years of age or older in complying with directions for proper use of pharmaceutical prescriptions. The pamphlet may provide space for recording information including but not limited to the following:

(a) name and telephone number of the patient;

(b) name and telephone number of the prescribing physician;

(c) date of prescription;

(d) name of drug prescribed;

(e) directions for patient compliance; and

(f) name and telephone number of dispensing pharmacy.

In developing the pamphlet, the Department shall consult with the Illinois State Medical Society, the Center for Minority Health Services, the Illinois Pharmacists Association and senior citizens organizations. The Department shall distribute the pamphlets to physicians, pharmacists and persons 65 years of age or older or various senior citizen organizations throughout the State.

(19) To conduct a study by April 1, 1994 of the feasibility of implementing the Senior Companion Program throughout the State for the fiscal year beginning July 1, 1994.

(20) With respect to contracts in effect on July 1, 1994, the Department shall increase the grant amounts so that the reimbursement rates paid through the community care program for chore housekeeping services and homemakers are at the same rate, which shall be the higher of the 2 rates currently paid. With respect to all contracts entered into, renewed, or extended on or after July 1, 1994, the reimbursement rates paid through the community care program for chore housekeeping services and homemakers shall be the same.

(21) From funds appropriated to the Department from the Meals on Wheels Fund, a special fund in the State treasury that is hereby created, and in accordance with State and federal guidelines and the intrastate funding formula, to make grants to area agencies on aging, designated by the Department, for

the sole purpose of delivering meals to homebound persons 60 years of age and older.

(22) To distribute, through its area agencies on aging, information alerting seniors on safety issues regarding emergency weather conditions, including extreme heat and cold, flooding, tornadoes, electrical storms, and other severe storm weather. The information shall include all necessary instructions for safety and all emergency telephone numbers of organizations that will provide additional information and assistance.

(23) To develop guidelines for the organization and implementation of Volunteer Services Credit Programs to be administered by Area Agencies on Aging or community based senior service organizations. The Department shall hold public hearings on the proposed guidelines for public comment, suggestion, and determination of public interest. The guidelines shall be based on the findings of other states and of community organizations in Illinois that are currently operating volunteer services credit programs or demonstration volunteer services credit programs. The Department shall offer guidelines for all aspects of the programs including, but not limited to, the following:

(a) types of services to be offered by volunteers;

(b) types of services to be received upon the redemption of service credits;

(c) issues of liability for the volunteers and the

administering organizations;

(d) methods of tracking service credits earned and service credits redeemed;

(e) issues of time limits for redemption of service credits;

(f) methods of recruitment of volunteers;

(g) utilization of community volunteers, community service groups, and other resources for delivering services to be received by service credit program clients;

(h) accountability and assurance that services will be available to individuals who have earned service credits; and

(i) volunteer screening and qualifications.

The Department shall submit a written copy of the guidelines to the General Assembly by July 1, 1998.

(Source: P.A. 92-651, eff. 7-11-02.)

Section 15. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Section 56 as follows:

(20 ILCS 1705/56) (from Ch. 91 1/2, par. 100-56)

Sec. 56. The Secretary, upon making a determination based upon information in the possession of the Department, that continuation in practice of a licensed health care professional would constitute an immediate danger to the public, shall

submit a written communication to the Director of Professional Regulation indicating such determination and additionally providing a complete summary of the information upon which such determination is based, and recommending that the Director of Professional Regulation immediately suspend such person's license. All relevant evidence, or copies thereof, in the Department's possession may also be submitted in conjunction with the written communication. A copy of such written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of such licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nursing and Advanced Practice Nursing Act, the Medical Practice Act of 1987, the Pharmacy Practice Act ~~of 1987~~, the Podiatric Medical Practice Act of 1987, and the Illinois Optometric Practice Act of 1987.

(Source: P.A. 89-507, eff. 7-1-97; 90-742, eff. 8-13-98.)

Section 20. The Department of Professional Regulation Law of the Civil Administrative Code of Illinois is amended by changing Section 2105-400 as follows:

(20 ILCS 2105/2105-400)

Sec. 2105-400. Emergency Powers.

(a) Upon proclamation of a disaster by the Governor, as provided for in the Illinois Emergency Management Agency Act, the Secretary of Financial and Professional Regulation shall have the following powers, which shall be exercised only in coordination with the Illinois Emergency Management Agency and the Department of Public Health:

(1) The power to suspend the requirements for permanent or temporary licensure of persons who are licensed in another state and are working under the direction of the Illinois Emergency Management Agency and the Department of Public Health pursuant to a declared disaster.

(2) The power to modify the scope of practice restrictions under any licensing act administered by the Department for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(3) The power to expand the exemption in Section 4(a) of the Pharmacy Practice Act ~~of 1987~~ to those licensed professionals whose scope of practice has been modified,

under paragraph (2) of subsection (a) of this Section, to include any element of the practice of pharmacy as defined in the Pharmacy Practice Act ~~of 1987~~ for any person working under the direction of the Illinois Emergency Management Agency and the Illinois Department of Public Health pursuant to the declared disaster.

(b) Persons exempt from licensure under paragraph (1) of subsection (a) of this Section and persons operating under modified scope of practice provisions under paragraph (2) of subsection (a) of this Section shall be exempt from licensure or be subject to modified scope of practice only until the declared disaster has ended as provided by law. For purposes of this Section, persons working under the direction of an emergency services and disaster agency accredited by the Illinois Emergency Management Agency and a local public health department, pursuant to a declared disaster, shall be deemed to be working under the direction of the Illinois Emergency Management Agency and the Department of Public Health.

(c) The Director shall exercise these powers by way of proclamation.

(Source: P.A. 93-829, eff. 7-28-04; 94-733, eff. 4-27-06.)

Section 25. The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois is amended by changing Section 2310-140 as follows:

(20 ILCS 2310/2310-140) (was 20 ILCS 2310/55.37a)

Sec. 2310-140. Recommending suspension of licensed health care professional. The Director, upon making a determination based upon information in the possession of the Department that continuation in practice of a licensed health care professional would constitute an immediate danger to the public, shall submit a written communication to the Director of Professional Regulation indicating that determination and additionally (i) providing a complete summary of the information upon which the determination is based and (ii) recommending that the Director of Professional Regulation immediately suspend the person's license. All relevant evidence, or copies thereof, in the Department's possession may also be submitted in conjunction with the written communication. A copy of the written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of the licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, that is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nursing and Advanced Practice Nursing

Act, the Medical Practice Act of 1987, the Pharmacy Practice Act ~~of 1987~~, the Podiatric Medical Practice Act of 1987, or the Illinois Optometric Practice Act of 1987.

(Source: P.A. 90-742, eff. 8-13-98; 91-239, eff. 1-1-00.)

Section 30. The Illinois Municipal Code is amended by changing Section 11-22-1 as follows:

(65 ILCS 5/11-22-1) (from Ch. 24, par. 11-22-1)

Sec. 11-22-1. The corporate authorities of each municipality may erect, establish, and maintain hospitals, nursing homes and medical dispensaries, all on a nonprofit basis, and may locate and regulate hospitals, medical dispensaries, sanitariums, and undertaking establishments; provided that the corporate authorities of any municipality shall not regulate any pharmacy or drugstore registered under the Pharmacy Practice Act ~~of 1987~~. Any hospital maintained under this Section is authorized to provide any service and enter into any contract or other arrangement not prohibited by a hospital licensed under the Hospital Licensing Act, incorporated under the General Not-For-Profit Corporation Act, and exempt from taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code.

For purposes of erecting, establishing and maintaining a nursing home on a nonprofit basis pursuant to this Section, the corporate authorities of each municipality shall have the power

to borrow money; execute a promissory note or notes, execute a mortgage or trust deed to secure payment of such notes or deeds, or execute such other security instrument or document as needed, and pledge real and personal nursing home property as security for any such promissory note, mortgage or trust deed; and issue revenue or general obligation bonds.

(Source: P.A. 86-739.)

Section 35. The School Employee Benefit Act is amended by changing Section 25 as follows:

(105 ILCS 55/25)

Sec. 25. Pharmacy providers.

(a) The Department or its contractor may enter into a contract with a pharmacy registered or licensed under Section 16a of the Pharmacy Practice Act ~~of 1987~~.

(b) Before entering into an agreement with other pharmacy providers, pursuant to Sections 15 and 20 of this Act, the Department or its contractor must by rule or contract establish terms or conditions that must be met by pharmacy providers desiring to contract with the Department or its contractor. If a pharmacy licensed under Section 15 of the Pharmacy Practice Act ~~of 1987~~ rejects the terms and conditions established, the Department or its contractor may offer other terms and conditions necessary to comply with the network adequacy requirements.

(c) Notwithstanding the provisions of subsection (a) of this Section, the Department or its contractor may not refuse to contract with a pharmacy licensed under Section 15 of the Pharmacy Practice Act ~~of 1987~~ that meets the terms and conditions established by the Department or its contractor under subsection (a) or (b) of this Section.

(Source: P.A. 93-1036, eff. 9-14-04.)

Section 40. The Illinois Insurance Code is amended by changing Section 512-7 as follows:

(215 ILCS 5/512-7) (from Ch. 73, par. 1065.59-7)

Sec. 512-7. Contractual provisions.

(a) Any agreement or contract entered into in this State between the administrator of a program and a pharmacy shall include a statement of the method and amount of reimbursement to the pharmacy for services rendered to persons enrolled in the program, the frequency of payment by the program administrator to the pharmacy for those services, and a method for the adjudication of complaints and the settlement of disputes between the contracting parties.

(b)(1) A program shall provide an annual period of at least 30 days during which any pharmacy licensed under the Pharmacy Practice Act ~~of 1987~~ may elect to participate in the program under the program terms for at least one year.

(2) If compliance with the requirements of this

subsection (b) would impair any provision of a contract between a program and any other person, and if the contract provision was in existence before January 1, 1990, then immediately after the expiration of those contract provisions the program shall comply with the requirements of this subsection (b).

(3) This subsection (b) does not apply if:

(A) the program administrator is a licensed health maintenance organization that owns or controls a pharmacy and that enters into an agreement or contract with that pharmacy in accordance with subsection (a); or

(B) the program administrator is a licensed health maintenance organization that is owned or controlled by another entity that also owns or controls a pharmacy, and the administrator enters into an agreement or contract with that pharmacy in accordance with subsection (a).

(4) This subsection (b) shall be inoperative after October 31, 1992.

(c) The program administrator shall cause to be issued an identification card to each person enrolled in the program. The identification card shall include:

(1) the name of the individual enrolled in the program; and

(2) an expiration date if required under the

contractual arrangement or agreement between a provider of pharmaceutical services and prescription drug products and the third party prescription program administrator.

(Source: P.A. 86-473; 87-254.)

Section 45. The Health Maintenance Organization Act is amended by changing Section 2-3.1 as follows:

(215 ILCS 125/2-3.1) (from Ch. 111 1/2, par. 1405.1)

Sec. 2-3.1. (a) No health maintenance organization shall cause to be dispensed any drug other than that prescribed by a physician. Nothing herein shall prohibit drug product selection under Section 3.14 of the "Illinois Food, Drug and Cosmetic Act", approved June 29, 1967, as amended, and in accordance with the requirements of Section 25 of the "Pharmacy Practice Act ~~of 1987~~", approved September 24, 1987, as amended.

(b) No health maintenance organization shall include in any contract with any physician providing for health care services any provision requiring such physician to prescribe any particular drug product to any enrollee unless the enrollee is a hospital in-patient where such drug product may be permitted pursuant to written guidelines or procedures previously established by a pharmaceutical or therapeutics committee of a hospital, approved by the medical staff of such hospital and specifically approved, in writing, by the prescribing physician for his or her patients in such hospital, and unless

it is compounded, dispensed or sold by a pharmacy located in a hospital, as defined in Section 3 of the Hospital Licensing Act or a hospital organized under "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.

(Source: P.A. 85-1246.)

Section 50. The Illinois Dental Practice Act is amended by changing Section 51 as follows:

(225 ILCS 25/51) (from Ch. 111, par. 2351)

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

Sec. 51. Dispensing Drugs or Medicine. Any dentist 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 the established name or names of the drug or medicine, the dosage and quantity, except as otherwise authorized by regulation of the Department.

This Section shall not apply to drugs and 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 and which is dispensed without consideration by a dentist. "Drug" and "medicine" have the meanings ascribed to them in the Pharmacy Practice Act ~~of 1987~~, 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", as amended.
(Source: P.A. 85-1209.)

Section 55. The Health Care Worker Self-Referral Act is amended by changing Section 15 as follows:

(225 ILCS 47/15)

Sec. 15. Definitions. In this Act:

(a) "Board" means the Health Facilities Planning Board.

(b) "Entity" means any individual, partnership, firm, corporation, or other business that provides health services but does not include an individual who is a health care worker who provides professional services to an individual.

(c) "Group practice" means a group of 2 or more health care workers legally organized as a partnership, professional corporation, not-for-profit corporation, faculty practice plan or a similar association in which:

(1) each health care worker who is a member or employee

or an independent contractor of the group provides substantially the full range of services that the health care worker routinely provides, including consultation, diagnosis, or treatment, through the use of office space, facilities, equipment, or personnel of the group;

(2) the services of the health care workers are provided through the group, and payments received for health services are treated as receipts of the group; and

(3) the overhead expenses and the income from the practice are distributed by methods previously determined by the group.

(d) "Health care worker" means any individual licensed under the laws of this State to provide health services, including but not limited to: dentists licensed under the Illinois Dental Practice Act; dental hygienists licensed under the Illinois Dental Practice Act; nurses and advanced practice nurses licensed under the Nursing and Advanced Practice Nursing Act; occupational therapists licensed under the Illinois Occupational Therapy Practice Act; optometrists licensed under the Illinois Optometric Practice Act of 1987; pharmacists licensed under the Pharmacy Practice Act ~~of 1987~~; physical therapists licensed under the Illinois Physical Therapy Act; physicians licensed under the Medical Practice Act of 1987; physician assistants licensed under the Physician Assistant Practice Act of 1987; podiatrists licensed under the Podiatric Medical Practice Act of 1987; clinical psychologists licensed

under the Clinical Psychologist Licensing Act; clinical social workers licensed under the Clinical Social Work and Social Work Practice Act; speech-language pathologists and audiologists licensed under the Illinois Speech-Language Pathology and Audiology Practice Act; or hearing instrument dispensers licensed under the Hearing Instrument Consumer Protection Act, or any of their successor Acts.

(e) "Health services" means health care procedures and services provided by or through a health care worker.

(f) "Immediate family member" means a health care worker's spouse, child, child's spouse, or a parent.

(g) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments except that investment interest for purposes of Section 20 does not include interest in a hospital licensed under the laws of the State of Illinois.

(h) "Investor" means an individual or entity directly or indirectly owning a legal or beneficial ownership or investment interest, (such as through an immediate family member, trust, or another entity related to the investor).

(i) "Office practice" includes the facility or facilities at which a health care worker, on an ongoing basis, provides or supervises the provision of professional health services to individuals.

(j) "Referral" means any referral of a patient for health services, including, without limitation:

(1) The forwarding of a patient by one health care worker to another health care worker or to an entity outside the health care worker's office practice or group practice that provides health services.

(2) The request or establishment by a health care worker of a plan of care outside the health care worker's office practice or group practice that includes the provision of any health services.

(Source: P.A. 89-72, eff. 12-31-95; 90-742, eff. 8-13-98.)

Section 60. 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 ~~of 1987~~ 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 ~~of 1987~~. 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 ~~of 1987~~, 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. 85-1209.)

Section 65. The Illinois Optometric Practice Act of 1987 is amended by changing Section 3 as follows:

(225 ILCS 80/3) (from Ch. 111, par. 3903)

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

Sec. 3. Practice of optometry defined; referrals; manufacture of lenses and prisms.

(a) The practice of optometry is defined as the employment of any and all means for the examination, diagnosis, and treatment of the human visual system, the human eye, and its appendages without the use of surgery, including but not limited to: the appropriate use of ocular pharmaceutical agents; refraction and other determinants of visual function; prescribing corrective lenses or prisms; prescribing, dispensing, or management of contact lenses; vision therapy; visual rehabilitation; or any other procedures taught in schools and colleges of optometry approved by the Department, and not specifically restricted in this Act, subject to

demonstrated competency and training as required by the Board, and pursuant to rule or regulation approved by the Board and adopted by the Department.

A person shall be deemed to be practicing optometry within the meaning of this Act who:

(1) In any way presents himself or herself to be qualified to practice optometry.

(2) Performs refractions or employs any other determinants of visual function.

(3) Employs any means for the adaptation of lenses or prisms.

(4) Prescribes corrective lenses, prisms, vision therapy, visual rehabilitation, or ocular pharmaceutical agents.

(5) Prescribes or manages contact lenses for refractive, cosmetic, or therapeutic purposes.

(6) Evaluates the need for, or prescribes, low vision aids to partially sighted persons.

(7) Diagnoses or treats any ocular abnormality, disease, or visual or muscular anomaly of the human eye or visual system.

(8) Practices, or offers or attempts to practice, optometry as defined in this Act either on his or her own behalf or as an employee of a person, firm, or corporation, whether under the supervision of his or her employer or not.

Nothing in this Section shall be interpreted (i) to prevent a person from functioning as an assistant under the direct supervision of a person licensed by the State of Illinois to practice optometry or medicine in all of its branches or (ii) to prohibit visual screening programs that are conducted without a fee (other than voluntary donations), by charitable organizations acting in the public welfare under the supervision of a committee composed of persons licensed by the State of Illinois to practice optometry or persons licensed by the State of Illinois to practice medicine in all of its branches.

(b) When, in the course of providing optometric services to any person, an optometrist licensed under this Act finds an indication of a disease or condition of the eye which in his or her professional judgment requires professional service outside the scope of practice as defined in this Act, he or she shall refer such person to a physician licensed to practice medicine in all of its branches, or other appropriate health care practitioner. Nothing in this Act shall preclude an optometrist from rendering appropriate nonsurgical emergency care.

(c) Nothing contained in this Section shall prohibit a person from manufacturing ophthalmic lenses and prisms or the fabrication of contact lenses according to the specifications prescribed by an optometrist or a physician licensed to practice medicine in all of its branches, but shall

specifically prohibit the sale or delivery of ophthalmic lenses, prisms, and contact lenses without a prescription signed by an optometrist or a physician licensed to practice medicine in all of its branches.

(d) Nothing in this Act shall restrict the filling of a prescription by a pharmacist licensed under the Pharmacy Practice Act ~~of 1987~~.

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

Section 70. The Pharmacy Practice Act of 1987 is amended by changing Sections 2, 3, 5, 6, 7, 7.5, 8, 9, 10, 11, 12, 13, 15, 16, 16a, 17, 17.1, 18, 19, 20, 22, 22a, 25, 26, 27, 30, 35.1, 35.2, 35.5, 35.7, 35.10, 35.12, 35.16, and 35.19 and by adding Sections 2.5, 9.5, 14.1, 16b, 22b, 25.5, 25.10, 25.15, and 25.20 as follows:

(225 ILCS 85/2) (from Ch. 111, par. 4122)

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

Sec. 2. This Act shall be known as the "Pharmacy Practice Act ~~of 1987~~".

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

(225 ILCS 85/2.5 new)

Sec. 2.5. References to Department or Director of Professional Regulation. References in this Act (i) to the Department of Professional Regulation are deemed, in

appropriate contexts, to be references to the Department of Financial and Professional Regulation and (ii) to the Director of Professional Regulation are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(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 pharmacist ~~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, advanced practice nurses, physician assistants, veterinarians, podiatrists, 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", "Dispensary", "Medicines", or any word or words of similar or like import, either in the English language or any other language; or (4) where the

characteristic prescription sign (Rx) or similar design is exhibited; or (5) any store, or shop, or other place with respect to which any of the above words, objects, signs or designs are used in any advertisement.

(b) "Drugs" means and includes (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 (1) the interpretation and

the provision of assistance in the monitoring, evaluation, and implementation of prescription drug orders; (2) the dispensing of prescription drug orders; (3) participation in drug and device selection; (4) drug administration limited to the administration of oral, topical, injectable, and inhalation as follows: in the context of patient education on the proper use or delivery of medications; vaccination of patients 14 years of age and older pursuant to a valid prescription or standing order, by a physician licensed to practice medicine in all its branches, upon completion of appropriate training, including how to address contraindications and adverse reactions set forth by rule, with notification to the patient's physician and appropriate record retention, or pursuant to hospital pharmacy and therapeutics committee policies and procedures; (5) drug regimen review; (6) drug or drug-related research; (7) the provision of patient counseling; (8) the practice of telepharmacy; (9) the provision of those acts or services necessary to provide pharmacist care; (10) medication therapy management; and (11) the responsibility for compounding and labeling of drugs and devices (except labeling by a manufacturer, repackager, or distributor of non-prescription drugs and commercially packaged legend drugs and devices), proper and safe storage of drugs and devices, and maintenance of required records. A pharmacist who performs any of the acts defined as the practice of pharmacy in this State must be actively licensed as a pharmacist under this Act. ~~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, 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 Financial and Professional Regulation.

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

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

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

(k) "Inpatient drug order" means an order issued by an authorized prescriber for a resident or patient of a facility licensed under the Nursing Home Care Act 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" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient in accordance with applicable State and federal laws and regulations. ~~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" or "dispensing" does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier. "Dispense" or "dispensing" also does not mean the

physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

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

(o) "Compounding" means the preparation and mixing of components, excluding flavorings, (1) as the result of a prescriber's prescription drug order or initiative based on the prescriber-patient-pharmacist relationship in the course of professional practice or (2) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly-observed dispensing patterns. Commercially available products may be compounded for dispensing to individual patients only if all of the following conditions are met: (i) the commercial product is not reasonably available from normal distribution channels in a timely manner to meet the patient's needs and (ii) the prescribing practitioner has requested that the drug be

compounded.~~, 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) (Blank). ~~"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) (Blank). ~~"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 pharmacy intern under the supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices.

"Patient counseling" may include without limitation (1) obtaining a medication history; (2) acquiring a patient's allergies and health conditions; (3) facilitation of the patient's understanding of the intended use of the medication; (4) proper directions for use; (5) significant potential adverse events; (6) potential food-drug interactions; and (7) the need to be compliant with the medication therapy. A pharmacy technician may only participate in the following aspects of patient counseling under the supervision of a pharmacist: (1) obtaining medication history; (2) providing the offer for counseling by a pharmacist or intern; and (3) acquiring a patient's allergies and health conditions. ~~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) (Blank). ~~"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.

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

(x) "Automated pharmacy system" means a mechanical system

located within the confines of the pharmacy or remote location that performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and which collects, controls, and maintains all transaction information.

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

(z) "Electronic transmission prescription" means any prescription order for which a facsimile or electronic image of the order is electronically transmitted from a licensed prescriber to a pharmacy. "Electronic transmission prescription" includes both data and image prescriptions.

(aa) "Medication therapy management services" means a distinct service or group of services offered by licensed pharmacists, physicians licensed to practice medicine in all its branches, advanced practice nurses authorized in a written

agreement with a physician licensed to practice medicine in all its branches, or physician assistants authorized in guidelines by a supervising physician that optimize therapeutic outcomes for individual patients through improved medication use. In a retail or other non-hospital pharmacy, medication therapy management services shall consist of the evaluation of prescription drug orders and patient medication records to resolve conflicts with the following:

(1) known allergies;

(2) drug or potential therapy contraindications;

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

(4) reasonable directions for use;

(5) potential or actual adverse drug reactions;

(6) drug-drug interactions;

(7) drug-food interactions;

(8) drug-disease contraindications;

(9) identification of therapeutic duplication;

(10) patient laboratory values when authorized and available;

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

(12) drug abuse and misuse.

"Medication therapy management services" includes the following:

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

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

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

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

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

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

(2) following protocols of a hospital pharmacy and therapeutics committee with respect to the fulfillment of medication orders.

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

enhance patient safety.

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

(1) transmitted by electronic media;

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

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

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

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

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

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

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

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

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

94-459, eff. 1-1-06.)

(225 ILCS 85/5) (from Ch. 111, par. 4125)

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

Sec. 5. Application of Act.

(a) It shall be unlawful for any person to engage in the practice of pharmacy in this State and it shall be unlawful for any employer to allow any person in his or her employ to engage in the practice of pharmacy in this State, unless such person who shall engage in the practice of pharmacy in this State shall be first authorized to do so under the provisions of this Act.

(b) Nothing contained in this Act shall be construed to invalidate any existing valid and unexpired certificate of registration, nor any existing rights or privileges thereunder, of any ~~registered~~ pharmacist, registered assistant pharmacist, local ~~registered~~ pharmacist, or registered pharmacy apprentice, in force on January 1, 1956 and issued under any prior Act of this State also in force on January 1, 1956. Every person holding such a certificate of registration shall have the authority to practice under this Act, but shall be subject to the same limitations and restrictions as were applicable to him or her in the Act under which his or her certificate of registration was issued. Each such certificate may be renewed as provided in Section 12.

(c) It shall be unlawful for any person to take, use or

exhibit any word, object, sign or design described in subsection (a) of Section 3 in connection with any drug store, shop or other place or in any other manner to advertise or hold himself out as operating or conducting a drug store unless such drug store, shop, pharmacy department or other place shall be operated and conducted in compliance with the provisions of this Act.

(d) Nothing in this Act shall be construed to authorize a pharmacist to prescribe or perform medical diagnosis of human ailments or conditions.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/6) (from Ch. 111, par. 4126)

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

Sec. 6. Each individual seeking licensure as a registered pharmacist shall make application to the Department and shall provide evidence of the following:

1. that he or she is a United States citizen or legally admitted alien;

2. that he or she has not engaged in conduct or behavior determined to be grounds for discipline under this Act;

3. that he or she is a graduate of a first professional degree program in pharmacy of a university recognized and approved by the Department;

4. that he or she has successfully completed a program of practice experience under the direct supervision of a

~~registered~~ pharmacist in a pharmacy in this State, or in any other State; and

5. that he or she has passed an examination recommended by the Board of Pharmacy and authorized by the Department.

~~The program of practice experience referred to in paragraph (4) of this Section shall be fulfilled by the successful completion of a practice course offered by a school or college of pharmacy or department of pharmacy recognized and approved by the Department, which shall be a minimum of one academic quarter in length.~~

~~Any person applying for a license as a registered pharmacist in this State who has graduated from a first professional degree program in pharmacy of at least 5 academic years from a school or college of pharmacy, which at the time of such graduation was not recognized and approved as reputable and in good standing by the Department, shall be required, in order to qualify for admittance to take the Department's examination for licensure as a registered pharmacist, to pass a preliminary diagnostic examination recommended by the Board and authorized by the Department, covering proficiency in the English language and such academic areas as the Board may deem essential to a satisfactory pharmacy curriculum and by rule prescribe. Any applicant who submits to and fails to pass the preliminary diagnostic examination may be required to satisfy the Board that he has taken additional remedial work previously approved by the Board to correct deficiencies in his~~

~~pharmaceutical education indicated by the results of the last preliminary diagnostic examination prior to taking the preliminary diagnostic examination again.~~

~~Any applicant who has graduated from a first professional degree program in pharmacy of at least 5 academic years from a school or college of pharmacy, which at the time of such graduation was not recognized and approved as reputable and in good standing by the Department, shall complete a clinical program previously approved by the Board on the basis of its equivalence to programs that are components of first professional degree programs in pharmacy approved by the Department.~~

~~Any person required by Section 6 to submit to a preliminary diagnostic examination in advance of admittance to an examination for registration as a registered pharmacist under this Act shall be permitted to take such preliminary diagnostic examination, provided that he is not less than 21 years of age and furnishes the Department with satisfactory evidence that he has: successfully completed a program of preprofessional education (postsecondary school) consisting of course work equivalent to that generally required for admission to U.S. colleges of pharmacy recognized and approved as reputable and in good standing by the Department; and has received a degree in pharmacy as required in this Section.~~

The Department shall issue a license as a registered pharmacist to any applicant who has qualified as aforesaid and

who has filed the required applications and paid the required fees in connection therewith; and such registrant shall have the authority to practice the profession of pharmacy in this State.

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

(225 ILCS 85/7) (from Ch. 111, par. 4127)

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

Sec. 7. Application; examination. Applications for original licenses shall be made to the Department in writing on forms prescribed by the Department and shall be accompanied by the required fee, which shall not be refundable. Any such application shall require such information as in the judgment of the Department will enable the Board and Department to pass on the qualifications of the applicant for a license.

The Department shall authorize examinations of applicants as pharmacists not less than 3 times per year at such times and places as it may determine. The examination of applicants shall be of a character to give a fair test of the qualifications of the applicant to practice pharmacy.

Applicants for examination as pharmacists shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and

acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee. The examination shall be developed and provided by the National Association of Boards of Pharmacy.

If an applicant neglects, fails or refuses to take an examination or fails to pass an examination for a license under this Act within 3 years after filing his application, the application is denied. However, such applicant may thereafter make a new application accompanied by the required fee and show evidence of meeting the requirements in force at the time of the new application.

The Department shall notify applicants taking the examination of their results within 7 weeks of the examination date. Further, the Department shall have the authority to immediately authorize such applicants who successfully pass the examination to engage in the practice of pharmacy.

An applicant shall have one year from the date of notification of successful completion of the examination to apply to the Department for a license. If an applicant fails to make such application within one year the applicant shall be required to again take and pass the examination.

An applicant who has graduated with a professional degree from a school of pharmacy located outside of the United States must do the following:

(1) obtain a Foreign Pharmacy Graduate Examination Committee (FPGEC) Certificate;

(2) complete 1,200 hours of clinical training and experience, as defined by rule, in the United States or its territories; and

(3) successfully complete the licensing requirements set forth in Section 6 of this Act, as well as those adopted by the Department by rule.

The Department may employ consultants for the purpose of preparing and conducting examinations.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/7.5)

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

Sec. 7.5. Social Security Number or unique identifying number on license application. In addition to any other information required to be contained in the application, every application for an original, renewal, or restored license under this Act shall include the applicant's Social Security Number or other unique identifying number deemed appropriate by the Department.

(Source: P.A. 90-144, eff. 7-23-97.)

(225 ILCS 85/8) (from Ch. 111, par. 4128)

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

Sec. 8. Licensure by endorsement; emergency licensure. The Department may, in its discretion, license as a pharmacist, without examination, on payment of the required fee, an

applicant who is so licensed under the laws of another U.S. jurisdiction or another country, if the requirements for licensure in the other jurisdiction in which the applicant was licensed, were, at the date of his or her licensure deemed by the Board to be substantially equivalent to the requirements then in force in this State.

A person holding an active, unencumbered license in good standing in another jurisdiction who applies for a license pursuant to Section 7 of this Act due to a natural disaster or catastrophic event in another jurisdiction may be temporarily authorized by the Secretary to practice pharmacy pending the issuance of the license. This temporary authorization shall expire upon issuance of the license or upon notification that the Department has denied licensure.

Upon a declared Executive Order due to an emergency caused by a natural or manmade disaster or any other exceptional situation that causes an extraordinary demand for pharmacist services, the Department may issue a pharmacist who holds a license to practice pharmacy in another state an emergency license to practice in this State.

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

(225 ILCS 85/9) (from Ch. 111, par. 4129)

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

Sec. 9. Registration as pharmacy technician. Any person shall be entitled to registration as a registered pharmacy

technician who is of the age of 16 or over, has not engaged in conduct or behavior determined to be grounds for discipline under this Act, ~~is of temperate habits,~~ is attending or has graduated from an accredited high school or comparable school or educational institution or received a GED, and has filed a written application for registration on a form to be prescribed and furnished by the Department for that purpose. The Department shall issue a certificate of registration as a registered pharmacy technician to any applicant who has qualified as aforesaid, and such registration shall be the sole authority required to assist licensed pharmacists in the practice of pharmacy, under the ~~personal~~ supervision of a licensed pharmacist. A registered pharmacy technician may, under the supervision of a pharmacist, assist in the practice of pharmacy and perform such functions as assisting in the dispensing process, offering counseling, receiving new verbal prescription orders, and having prescriber contact concerning prescription drug order clarification. A registered pharmacy technician may not engage in patient counseling, drug regimen review, or clinical conflict resolution.

Beginning on January 1, 2010, within 2 years after being employed as a registered technician, a pharmacy technician must become certified by successfully passing the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination in order to continue to perform pharmacy technician's duties. This

requirement does not apply to pharmacy technicians hired prior to January 1, 2008.

Any person registered as a pharmacy technician who is also enrolled in a first professional degree program in pharmacy in a school or college of pharmacy or a department of pharmacy of a university approved by the Department shall be considered a "pharmacy intern" ~~"student pharmacist"~~ and entitled to use the title "pharmacy intern". A pharmacy intern must meet all of the requirements for registration as a pharmacy technician set forth in this Section and pay the required pharmacy technician registration fees ~~"student pharmacist"~~.

The Department, upon the recommendation of the Board, may take any action set forth in Section 30 of this Act with regard to certificates pursuant to this Section.

Any person who is enrolled in a non-traditional Pharm.D. program at an ACPE accredited college of pharmacy and is a licensed pharmacist under the laws of another United States jurisdiction shall be permitted to engage in the program of practice experience required in the academic program by virtue of such license. Such person shall be exempt from the requirement of registration as a registered pharmacy technician while engaged in the program of practice experience required in the academic program.

An applicant for registration as a pharmacy technician may assist a ~~registered~~ pharmacist in the practice of pharmacy for a period of up to 60 days prior to the issuance of a

certificate of registration if the applicant has submitted the required fee and an application for registration to the Department. The applicant shall keep a copy of the submitted application on the premises where the applicant is assisting in the practice of pharmacy. The Department shall forward confirmation of receipt of the application with start and expiration dates of practice pending registration.

(Source: P.A. 92-16, eff. 6-28-01.)

(225 ILCS 85/9.5 new)

Sec. 9.5. Certified pharmacy technician.

(a) An individual registered as a pharmacy technician under this Act may receive certification as a certified pharmacy technician, if he or she meets all of the following requirements:

(1) He or she has submitted a written application in the form and manner prescribed by the Board.

(2) He or she has attained the age of 18.

(3) He or she is of good moral character, as determined by the Department.

(4) He or she has (i) graduated from pharmacy technician training meeting the requirements set forth in subsection (a) of Section 17.1 of this Act or (ii) obtained documentation from the pharmacist-in-charge of the pharmacy where the applicant is employed verifying that he or she has successfully completed a training program and

has successfully completed an objective assessment mechanism prepared in accordance with rules established by the Board.

(5) He or she has successfully passed an examination accredited by the National Organization of Certifying Agencies, as approved and required by the Board.

(6) He or she has paid the required certification fees.

(b) No pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes may be eligible to be registered as a certified pharmacy technician.

(c) The Board may, by rule, establish any additional requirements for certification under this Section.

(225 ILCS 85/10) (from Ch. 111, par. 4130)

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

Sec. 10. State Board of Pharmacy. There is created in the Department the State Board of Pharmacy. It shall consist of 9 members, 7 of whom shall be licensed pharmacists. Each of those 7 members must be a licensed pharmacist in good standing in this State, a graduate of an accredited college of pharmacy or hold a Bachelor of Science degree in Pharmacy and have at least 5 years' practical experience in the practice of pharmacy subsequent to the date of his licensure as a licensed pharmacist in the State of Illinois. There shall be 2 public members, who shall be voting members, who shall not be licensed pharmacists in this State or any other state.

Each member shall be appointed by the Governor.

Members ~~The terms of all members serving as of March 31, 1999 shall expire on that date. The Governor shall appoint 3 persons to serve one-year terms, 3 persons to serve 3-year terms, and 3 persons to serve 5 year terms to begin April 1, 1999. Otherwise, members~~ shall be appointed to 5 year terms. The Governor shall fill any vacancy for the remainder of the unexpired term. Partial terms over 3 years in length shall be considered full terms. A member may be reappointed for a successive term, but no member shall serve more than 2 full terms in his or her lifetime. ~~No member shall be eligible to serve more than 12 consecutive years.~~

In making the appointment of members on the Board, the Governor shall give due consideration to recommendations by the members of the profession of pharmacy and by pharmacy ~~pharmaceutical~~ organizations therein. The Governor shall notify the pharmacy ~~pharmaceutical~~ organizations promptly of any vacancy of members on the Board and in appointing members shall give consideration to individuals engaged in all types and settings of pharmacy practice.

The Governor may remove any member of the Board for misconduct, incapacity or neglect of duty and he shall be the sole judge of the sufficiency of the cause for removal.

~~Every person appointed a member of the Board shall take and subscribe the constitutional oath of office and file it with the Secretary of State.~~ Each member of the Board shall be

reimbursed for such actual and legitimate expenses as he may incur in going to and from the place of meeting and remaining thereat during sessions of the Board. In addition, each member of the Board may ~~shall~~ receive a per diem payment in an amount determined from time to time by the Director for attendance at meetings of the Board and conducting other official business of the Board.

The Board shall hold quarterly meetings ~~and an annual meeting in January of each year and such other meetings~~ at such times and places and upon ~~such~~ notice as the Department ~~Board~~ may determine and as its business may require. A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board. ~~Five members of the Board shall constitute a quorum for the transaction of business. The Director shall appoint a pharmacy coordinator, who shall be someone other than a member of the Board. The pharmacy coordinator shall be a registered pharmacist in good standing in this State, shall be a graduate of an accredited college of pharmacy, or hold at a minimum a Bachelor of Science degree in Pharmacy and shall have at least 5 years' experience in the practice of pharmacy immediately prior to his appointment. The pharmacy coordinator shall be the executive administrator and the chief enforcement officer of the Pharmacy Practice Act of 1987.~~

The Board shall exercise the rights, powers and duties which have been vested in the Board under this Act, and any other duties conferred upon the Board by law.

~~The Director shall, in conformity with the Personnel Code, employ not less than 7 pharmacy investigators and 2 pharmacy supervisors. Each pharmacy investigator and each supervisor shall be a registered pharmacist in good standing in this State, and shall be a graduate of an accredited college of pharmacy and have at least 5 years of experience in the practice of pharmacy. The Department shall also employ at least one attorney who is a pharmacist to prosecute violations of this Act and its rules. The Department may, in conformity with the Personnel Code, employ such clerical and other employees as are necessary to carry out the duties of the Board.~~

~~The duly authorized pharmacy investigators of the Department shall have the right to enter and inspect during business hours any pharmacy or any other place in the State of Illinois holding itself out to be a pharmacy where medicines or drugs or drug products or proprietary medicines are sold, offered for sale, exposed for sale, or kept for sale. The pharmacy investigators shall be the only Department investigators authorized to inspect, investigate, and monitor probation compliance of pharmacists, pharmacies, and pharmacy technicians.~~

(Source: P.A. 91-827, eff. 6-13-00; 92-651, eff. 7-11-02; 92-880, eff. 1-1-04.)

(225 ILCS 85/11) (from Ch. 111, par. 4131)

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

Sec. 11. Duties of the Department. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of Licensing Acts and shall exercise such other powers and duties necessary for effectuating the purpose of this Act. However, the following powers and duties shall be exercised only upon review ~~action and report in writing of a majority~~ of the Board of Pharmacy to take such action:

(a) Formulate such rules, not inconsistent with law and subject to the Illinois Administrative Procedure Act, as may be necessary to carry out the purposes and enforce the provisions of this Act. The Director may grant variances from any such rules as provided for in this Section;

(b) The suspension, revocation, placing on probationary status, reprimand, and refusing to issue or restore any license or certificate of registration issued under the provisions of this Act for the reasons set forth in Section 30 of this Act.

(c) The issuance, renewal, restoration or reissuance of any license or certificate which has been previously refused to be issued or renewed, or has been revoked, suspended or placed on probationary status.

The granting of variances from rules promulgated pursuant to this Section in individual cases where there is a finding

that:

(1) the provision from which the variance is granted is not statutorily mandated;

(2) no party will be injured by the granting of the variance; and

(3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

The Director shall notify the State Board of Pharmacy of the granting of such variance and the reasons therefor, at the next meeting of the Board.

(d) The Secretary shall appoint a chief pharmacy coordinator and at least 2 deputy pharmacy coordinators, all of whom shall be registered pharmacists in good standing in this State, shall be graduates of an accredited college of pharmacy or hold, at a minimum, a bachelor of science degree in pharmacy, and shall have at least 5 years of experience in the practice of pharmacy immediately prior to his or her appointment. The chief pharmacy coordinator shall be the executive administrator and the chief enforcement officer of this Act. The deputy pharmacy coordinators shall report to the chief pharmacy coordinator. The Secretary shall assign at least one deputy pharmacy coordinator to a region composed of Cook County and such other counties as the Secretary may deem appropriate, and such deputy pharmacy coordinator shall have his or her primary office in Chicago. The Secretary shall

assign at least one deputy pharmacy coordinator to a region composed of the balance of counties in the State, and such deputy pharmacy coordinator shall have his or her primary office in Springfield.

(e) The Secretary shall, in conformity with the Personnel Code, employ not less than 4 pharmacy investigators who shall report to the pharmacy coordinator or a deputy pharmacy coordinator. Each pharmacy investigator shall be a graduate of a 4-year college or university and shall (i) have at least 2 years of investigative experience; (ii) have 2 years of responsible pharmacy experience; or (iii) be a licensed pharmacist. The Department shall also employ at least one attorney to prosecute violations of this Act and its rules. The Department may, in conformity with the Personnel Code, employ such clerical and other employees as are necessary to carry out the duties of the Board and Department.

The duly authorized pharmacy investigators of the Department shall have the right to enter and inspect, during business hours, any pharmacy or any other place in this State holding itself out to be a pharmacy where medicines, drugs or drug products, or proprietary medicines are sold, offered for sale, exposed for sale, or kept for sale.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/12) (from Ch. 111, par. 4132)

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

Sec. 12. Expiration of license; renewal. The expiration date and renewal period for each license and certificate of registration issued under this Act shall be set by rule.

As a condition for the renewal of a certificate of registration as a ~~registered~~ pharmacist, the registrant shall provide evidence to the Department of completion of a total of 30 hours of pharmacy continuing education during the 24 months ~~2 calendar years~~ preceding the expiration date of the certificate. Such continuing education shall be approved by the Accreditation Council on Pharmacy ~~American Council on Pharmaceutical~~ Education.

The Department shall establish by rule a means for the verification of completion of the continuing education required by this Section. This verification may be accomplished through audits of records maintained by registrants, by requiring the filing of continuing education certificates with the Department or a qualified organization selected by the Department to maintain such records or by other means established by the Department.

Rules developed under this Section may provide for a reasonable biennial fee, not to exceed $20, to fund the cost of such recordkeeping. The Department shall, by rule, further provide an orderly process for the reinstatement of licenses which have not been renewed due to the failure to meet the continuing education requirements of this Section. The requirements of continuing education may be waived, in whole or

in part, in cases of extreme hardship as defined by rule of the Department. Such waivers shall be granted for not more than one of any 3 consecutive renewal periods.

Any pharmacist who has permitted his license to expire or who has had his license on inactive status may have his license restored by making application to the Department and filing proof acceptable to the Department of his fitness to have his license restored, and by paying the required restoration fee. The Department shall determine, by an evaluation program established by rule his fitness for restoration of his license and shall establish procedures and requirements for such restoration. However, any pharmacist who demonstrates that he has continuously maintained active practice in another jurisdiction pursuant to a license in good standing, and who has substantially complied with the continuing education requirements of this Section shall not be subject to further evaluation for purposes of this Section.

Any licensee who shall engage in the practice for which his or her license was issued while the license is expired or on inactive status shall be considered to be practicing without a license which, shall be grounds for discipline under Section 30 of this Act.

Any pharmacy operating on an expired license is engaged in the unlawful practice of pharmacy and is subject to discipline under Section 30 of this Act. A pharmacy whose license has been expired for one year or more may not have its license restored

but must apply for a new license and meet all requirements for licensure. Any pharmacy whose license has been expired for less than one year may apply for restoration of its license and shall have its license restored.

However, any pharmacist whose license expired while he was (1) in Federal Service on active duty with the Armed Forces of the United States, or the State Militia called into service or training, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may have his license or certificate restored without paying any lapsed renewal fees, if within 2 years after honorable termination of such service, training or education he furnishes the Department with satisfactory evidence to the effect that he has been so engaged and that his service, training or education has been so terminated.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/13) (from Ch. 111, par. 4133)

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

Sec. 13. Inactive status. Any pharmacist or pharmacy technician who notifies the Department, in writing on forms prescribed by the Department, may elect to place his or her license on an inactive status and shall be excused from payment of renewal fees and completion of continuing education requirements until he or she notifies the Department in writing of his or her intent to restore his license.

Any pharmacist or pharmacist technician requesting restoration from inactive status shall be required to pay the current renewal fee and shall be required to restore his or her license or certificate, as provided by rule of the Department.

Any pharmacist or pharmacist technician whose license is in inactive status shall not practice in the State of Illinois.

A ~~Neither a~~ pharmacy license ~~nor a pharmacy technician license~~ may not be placed on inactive status.

Continued practice on a license which has lapsed or been placed on inactive status shall be considered to be practicing without a license.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/14.1 new)

Sec. 14.1. Structural and equipment requirements. The Department shall establish structural and equipment requirements for a pharmacy by rule.

(225 ILCS 85/15) (from Ch. 111, par. 4135)

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

Sec. 15. Pharmacy requirements. It shall be unlawful for the owner of any pharmacy, as defined in this Act, to operate or conduct the same, or to allow the same to be operated or conducted, unless:

(a) It has a licensed pharmacist, authorized to practice pharmacy in this State under the provisions of this Act, on

duty whenever the practice of pharmacy is conducted;

(b) Security provisions for all drugs and devices, as determined by rule of the Department, are provided during the absence from the licensed pharmacy of all licensed pharmacists. Maintenance of security provisions is the responsibility of the licensed ~~registered~~ pharmacist in charge; and

(c) The pharmacy is licensed under this Act to conduct the practice of pharmacy in any and all forms from the physical address of the pharmacy's primary inventory where U.S. mail is delivered. If a facility, company, or organization operates multiple pharmacies from multiple physical addresses, a separate pharmacy license is required for each different physical address ~~to do business~~.

(d) The Department may allow a pharmacy that is not located at the same location as its home pharmacy and at which pharmacy services are provided during an emergency situation, as defined by rule, to be operated as an emergency remote pharmacy. An emergency remote pharmacy operating under this subsection (d) shall operate under the license of the home pharmacy.

~~The Department shall, by rule, provide requirements for each division of pharmacy license and shall, as well provide guidelines for the designation of a registered pharmacist in charge for each division.~~

~~Division I. Retail Licenses for pharmacies which are open to, or offer pharmacy services to, the general public.~~

~~Division II. Licenses for pharmacies whose primary~~

~~pharmacy service is provided to patients or residents of facilities 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, and which are not located in the facilities they serve.~~

~~Division III. Licenses for pharmacies which are located in 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, and which provide pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.~~

~~Division IV. Licenses for pharmacies which provide or offer for sale radioactive materials.~~

~~Division V. Licenses for pharmacies which hold licenses in Division II or Division III which also provide pharmacy services to the general public, or pharmacies which are located in or whose primary pharmacy service is to ambulatory care facilities or schools of veterinary medicine or other such~~

~~institution or facility.~~

~~Division VI. Licenses for pharmacies that provide pharmacy services to patients of institutions serviced by pharmacies with a Division II or Division III license, without using their own supply of drugs. Division VI pharmacies may provide pharmacy services only in cooperation with an institution's pharmacy or pharmacy provider. Nothing in this paragraph shall constitute a change to the practice of pharmacy as defined in Section 3 of this Act. Nothing in this amendatory Act of the 94th General Assembly shall in any way alter the definition or operation of any other division of pharmacy as provided in this Act.~~

The Director may waive the requirement for a pharmacist to be on duty at all times for State facilities not treating human ailments.

It shall be unlawful for any person, who is not a licensed pharmacy or health care facility, to purport to be such or to use in name, title, or sign designating, or in connection with that place of business, any of the words: "pharmacy", "pharmacist", "pharmacy department", "apothecary", "druggist", "drug", "drugs", "medicines", "medicine store", "drug sundries", "prescriptions filled", or any list of words indicating that drugs are compounded or sold to the lay public, or prescriptions are dispensed therein. Each day during which, or a part which, such representation is made or appears or such a sign is allowed to remain upon or in such a place of business

shall constitute a separate offense under this Act.

The holder of any license or certificate of registration shall conspicuously display it in the pharmacy in which he is engaged in the practice of pharmacy. The ~~registered~~ pharmacist in charge shall conspicuously display his name in such pharmacy. The pharmacy license shall also be conspicuously displayed.

(Source: P.A. 94-84, eff. 6-28-05.)

(225 ILCS 85/16) (from Ch. 111, par. 4136)

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

Sec. 16. The Department shall require and provide for the licensure of every pharmacy doing business in this State. Such licensure shall expire 30 ~~10~~ days after the pharmacist in charge dies or leaves the place where the pharmacy is licensed or after such pharmacist's license has been suspended or revoked.

In the event the designated pharmacist in charge dies or otherwise ceases to function in that capacity, or when the license of the pharmacist in charge has been suspended or revoked, the owner of the pharmacy shall be required to notify the Department, on forms provided by the Department, of the identity of the new pharmacist in charge.

It is the duty of every pharmacist in charge who ceases to function in that capacity to report to the Department within 30 ~~10~~ days of the date on which he ceased such functions for such

pharmacy. It is the duty of every owner of a pharmacy licensed under this Act to report to the Department within 30 ~~10~~ days of the date on which the pharmacist in charge died or ceased to function in that capacity. Failure to provide such notification to the Department shall be grounds for disciplinary action.

No license shall be issued to any pharmacy unless such pharmacy has a pharmacist in charge and each such pharmacy license shall indicate on the face thereof the pharmacist in charge.

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

(225 ILCS 85/16a) (from Ch. 111, par. 4136a)

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

Sec. 16a. (a) The Department shall establish rules and regulations, consistent with the provisions of this Act, governing nonresident ~~mail order~~ pharmacies, including pharmacies providing services via the Internet, which sell, or offer for sale, drugs, medicines, or other pharmaceutical services in this State.

(b) The Board shall require and provide for an annual nonresident special pharmacy registration for all pharmacies located outside of this State that dispense medications for Illinois residents and mail, ship, or deliver prescription medications into this State. Nonresident special pharmacy registration shall be granted by the Board upon the disclosure and certification by a pharmacy:

(1) that it is licensed in the state in which the dispensing facility is located and from which the drugs are dispensed;

(2) of the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing drugs to residents of this State;

(3) that it complies with all lawful directions and requests for information from the board of pharmacy of each state in which it is licensed or registered, except that it shall respond directly to all communications from the Board concerning emergency circumstances arising from the dispensing of drugs to residents of this State;

(4) that it maintains its records of drugs dispensed to residents of this State so that the records are readily retrievable from the records of other drugs dispensed;

(5) that it cooperates with the Board in providing information to the board of pharmacy of the state in which it is licensed concerning matters related to the dispensing of drugs to residents of this State; and

(6) that during its regular hours of operation, but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service is provided to facilitate communication between patients in this State and a pharmacist at the pharmacy who has access to the patients' records. The toll-free number must be disclosed on the label affixed to each container of drugs dispensed

to residents of this State.

(Source: P.A. 91-438, eff. 1-1-00.)

(225 ILCS 85/16b new)

Sec. 16b. Prescription pick up and drop off. Nothing contained in this Act shall prohibit a pharmacist or pharmacy, by means of its employee or by use of a common carrier or the U.S. mail, at the request of the patient, from picking up prescription orders from the prescriber or delivering prescription drugs to the patient or the patient's agent at the residence or place of employment of the person for whom the prescription was issued or at the hospital or medical care facility in which the patient is confined. Conversely, the patient or patient's agent may drop off prescriptions at a designated area.

(225 ILCS 85/17) (from Ch. 111, par. 4137)

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

Sec. 17. Disposition of legend drugs on cessation of pharmacy operations.

(a) The pharmacist in charge of a pharmacy which has its pharmacy license revoked or otherwise ceases operation shall notify the Department and forward to the Department a copy of the closing inventory of controlled substances and a statement indicating the intended manner of disposition of all legend drugs and prescription files within 30 ~~10~~ days of such

revocation or cessation of operation.

(b) The Department shall approve the intended manner of disposition of all legend drugs prior to disposition of such drugs by the pharmacist in charge.

(1) The Department shall notify the pharmacist in charge of approval of the manner of disposition of all legend drugs, or disapproval accompanied by reasons for such disapproval, within 30 ~~10~~ days of receipt of the statement from the pharmacist in charge. In the event that the manner of disposition is not approved, the pharmacist in charge shall notify the Department of an alternative manner of disposition within 30 ~~10~~ days of the receipt of disapproval.

(2) If disposition of all legend drugs does not occur within 30 ~~10~~ days after approval is received from the Department, or if no alternative method of disposition is submitted to the Department within 30 ~~10~~ days of the Department's disapproval, the Director shall notify the pharmacist in charge by mail at the address of the closing pharmacy, of the Department's intent to confiscate all legend drugs. The Notice of Intent to Confiscate shall be the final administrative decision of the Department, as that term is defined in the Administrative Review Law, and the confiscation of all prescription drugs shall be effected.

(b-5) In the event that the pharmacist in charge has died

or is otherwise physically incompetent to perform the duties of this Section, the owner of a pharmacy that has its license revoked or otherwise ceases operation shall be required to fulfill the duties otherwise imposed upon the pharmacist in charge.

(c) The pharmacist in charge of a pharmacy which acquires prescription files from a pharmacy which ceases operation shall be responsible for the preservation of such acquired prescriptions for the remainder of the term that such prescriptions are required to be preserved by this Act.

(d) Failure to comply with this Section shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registration.

(e) Compliance with the provisions of the Illinois Controlled Substances Act concerning the disposition of controlled substances shall be deemed compliance with this Section with respect to legend drugs which are controlled substances.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/17.1)

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

Sec. 17.1. Pharmacy technician training.

(a) Beginning January 1, 2004, it shall be the joint responsibility of a pharmacy and its pharmacist in charge to

have trained all of its pharmacy technicians or obtain proof of prior training in all of the following topics as they relate to the practice site:

(1) The duties and responsibilities of the technicians and pharmacists.

(2) Tasks and technical skills, policies, and procedures.

(3) Compounding, packaging, labeling, and storage.

(4) Pharmaceutical and medical terminology.

(5) Record keeping requirements.

(6) The ability to perform and apply arithmetic calculations.

(b) Within 6 months after initial employment or changing the duties and responsibilities of a pharmacy technician, it shall be the joint responsibility of the pharmacy and the pharmacist in charge to train the pharmacy technician or obtain proof of prior training in the areas listed in subsection (a) of this Section as they relate to the practice site or to document that the pharmacy technician is making appropriate progress.

(c) All ~~divisions of~~ pharmacies shall maintain an up-to-date training program describing the duties and responsibilities of a pharmacy technician.

(d) All ~~divisions of~~ pharmacies shall create and maintain retrievable records of training or proof of training as required in this Section.

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

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

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

Sec. 18. Record retention. ~~(a)~~ 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 ~~identifier~~ of the persons ~~person~~ 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; ~~and~~

(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.

~~(b) The record retention requirements for a Division VI pharmacy shall be set by rule.~~

(Source: P.A. 94-84, eff. 6-28-05.)

(225 ILCS 85/19) (from Ch. 111, par. 4139)

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

Sec. 19. Nothing contained in this Act shall be construed to prohibit a pharmacist licensed in this State from filling or refilling a valid prescription for prescription drugs which is on file in a pharmacy licensed in any state and has been

transferred from one pharmacy to another by any means, including by way of electronic data processing equipment upon the following conditions and exceptions:

(1) Prior to dispensing pursuant to any such prescription, the dispensing pharmacist shall:

(a) Advise the patient that the prescription on file at such other pharmacy must be canceled before he or she will be able to fill or refill it.

(b) Determine that the prescription is valid and on file at such other pharmacy and that such prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on such prescription.

(c) Notify the pharmacy where the prescription is on file that the prescription must be canceled.

(d) Record in writing the prescription order, the name of the pharmacy at which the prescription was on file, the prescription number, the name of the drug and the original amount dispensed, the date of original dispensing, and the number of remaining authorized refills.

(e) Obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the professional judgment of the dispensing pharmacist, so requires.

(2) Upon receipt of a request for prescription information set forth in subparagraph (d) of paragraph (1) of this Section, if the requested pharmacist is satisfied in his professional

judgment that such request is valid and legal, the requested pharmacist shall:

(a) Provide such information accurately and completely.

(b) Record electronically or, if in writing, on the face of the prescription, the name of the requesting pharmacy and pharmacist and the date of request.

(c) Cancel the prescription on file by writing the word "void" on its face or the electronic equivalent, if not in written format. No further prescription information shall be given or medication dispensed pursuant to such original prescription.

(3) In the event that, after the information set forth in subparagraph (d) of paragraph (1) of this Section has been provided, a prescription is not dispensed by the requesting pharmacist, then such pharmacist shall provide notice of this fact to the pharmacy from which such information was obtained; such notice shall then cancel the prescription in the same manner as set forth in subparagraph (c) of paragraph (2) of this Section.

(4) When filling or refilling a valid prescription on file in another state, the dispensing pharmacist shall be required to follow all the requirements of Illinois law which apply to the dispensing of prescription drugs. If anything in Illinois law prevents the filling or refilling of the original prescription it shall be unlawful to dispense pursuant to this

Section.

(5) Prescriptions for drugs in Schedules III, IV, and V of the Illinois Controlled Substances Act may be transferred only once and may not be further transferred. However, pharmacies electronically sharing a real-time, online database may transfer up to the maximum refills permitted by the law and the prescriber's authorization.

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

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

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

Sec. 20. Two or more pharmacies may establish and use a common electronic file to maintain required dispensing information.

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

The Department and Board may formulate such rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes of and to enforce the provisions of this Section within the following exception: The Department and Board shall not impose greater requirements on either common

electronic files or a hard copy record system.

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

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

Nothing in this Section shall prohibit a pharmacist who is exercising his or her professional judgment from dispensing additional quantities of medication up to the total number of dosage units authorized by the prescriber on the original prescription and any refills.

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

(225 ILCS 85/22) (from Ch. 111, par. 4142)

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

Sec. 22. Except only in the case of a drug, medicine or poison which is lawfully sold or dispensed, at retail, in the original and unbroken package of the manufacturer, packer, or distributor thereof, and which package bears the original label thereon showing the name and address of the manufacturer, packer, or distributor thereof, and the name of the drug, medicine, or poison therein contained, and the directions for its use, no person shall sell or dispense, at retail, any drug, medicine, or poison, without affixing to the box, bottle, vessel, or package containing the same, a label bearing the name of the article distinctly shown, and the directions for its use, with the name and address of the pharmacy wherein the same is sold or dispensed. However, in the case of a drug, medicine, or poison which is sold or dispensed pursuant to a prescription of a physician licensed to practice medicine in all of its branches, licensed dentist, licensed veterinarian, licensed podiatrist, or therapeutically or diagnostically certified optometrist authorized by law to prescribe drugs or medicines or poisons, the label affixed to the box, bottle, vessel, or package containing the same shall show: (a) the name and address of the pharmacy wherein the same is sold or dispensed; (b) the name or initials of the person, authorized to practice pharmacy under the provisions of this Act, selling

or dispensing the same, (c) the date on which such prescription was filled; (d) the name of the patient; (e) the serial number of such prescription as filed in the prescription files; (f) the last name of the practitioner who prescribed such prescriptions; (g) the directions for use thereof as contained in such prescription; and (h) the proprietary name or names or the established name or names of the drugs, the dosage and quantity, except as otherwise authorized by regulation of the Department. ~~The Department shall establish rules governing labeling in Division II and Division III pharmacies.~~

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

(225 ILCS 85/22a)

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

Sec. 22a. Automated dispensing and storage systems. The Department shall establish rules governing the use of automated dispensing and storage systems~~ by Division I through V pharmacies~~.

(Source: P.A. 90-253, eff. 7-29-97.)

(225 ILCS 85/22b new)

Sec. 22b. Automated pharmacy systems; remote dispensing.

(a) Automated pharmacy systems must have adequate security and procedures to comply with federal and State laws and regulations and maintain patient confidentiality, as defined by rule.

(b) Access to and dispensing from an automated pharmacy system shall be limited to pharmacists or personnel who are designated in writing by the pharmacist-in-charge and have completed documented training concerning their duties associated with the automated pharmacy system.

(c) All drugs stored in relation to an automated pharmacy system must be stored in compliance with this Act and the rules adopted under this Act, including the requirements for temperature, proper storage containers, handling of outdated drugs, prescription dispensing, and delivery.

(d) An automated pharmacy system operated from a remote site shall be under the continuous supervision of a home pharmacy pharmacist. To qualify as continuous supervision, the pharmacist is not required to be physically present at the site of the automated pharmacy system if the system is supervised electronically by a pharmacist, as defined by rule.

(e) Drugs may only be dispensed at a remote site through an automated pharmacy system after receipt of an original prescription drug order by a pharmacist at the home pharmacy. A pharmacist at the home pharmacy must control all operations of the automated pharmacy system and approve the release of the initial dose of a prescription drug order. Refills from an approved prescription drug order may be removed from the automated medication system after this initial approval. Any change made in the prescription drug order shall require a new approval by a pharmacist to release the drug.

(f) If an automated pharmacy system uses removable cartridges or containers to store a drug, the stocking or restocking of the cartridges or containers may occur at a licensed wholesale drug distributor and be sent to the home pharmacy to be loaded after pharmacist verification by personnel designated by the pharmacist, provided that the individual cartridge or container is transported to the home pharmacy in a secure, tamper evident container. An automated pharmacy system must use a bar code verification or weight verification or electronic verification or similar process to ensure that the cartridge or container is accurately loaded into the automated pharmacy system. The pharmacist verifying the filling and labeling shall be responsible for ensuring that the cartridge or container is stocked or restocked correctly by personnel designated to load the cartridges or containers. An automated pharmacy system must use a bar code verification, electronic, or similar process, as defined by rule, to ensure that the proper medication is dispensed from the automated system. A record of each transaction with the automated pharmacy system must be maintained for 5 years. A prescription dispensed from an automated pharmacy system shall be deemed to have been approved by the pharmacist. No automated pharmacy system shall be operated prior to inspection and approval by the Department.

(225 ILCS 85/25) (from Ch. 111, par. 4145)

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

Sec. 25. No person shall compound, or sell or offer for sale, or cause to be compounded, sold or offered for sale any medicine or preparation under or by a name recognized in the United States Pharmacopoeia National Formulary, for internal or external use, which differs from the standard of strength, quality or purity as determined by the test laid down in the United States Pharmacopoeia National Formulary official at the time of such compounding, sale or offering for sale. Nor shall any person compound, sell or offer for sale, or cause to be compounded, sold, or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, the strength or purity of which shall fall below the professed standard of strength or purity under which it is sold. Except as set forth in Section 26 of this Act, if the physician or other authorized prescriber, when transmitting an oral or written prescription, does not prohibit drug product selection, a different brand name or nonbrand name drug product of the same generic name may be dispensed by the pharmacist, provided that the selected drug has a unit price less than the drug product specified in the prescription. A generic drug determined to be therapeutically equivalent by the United States Food and Drug Administration (FDA) shall be available for substitution in Illinois in accordance with this Act and the Illinois Food, Drug and Cosmetic Act, provided that each manufacturer submits to the Director of the Department of Public Health a notification

containing product technical bioequivalence information as a prerequisite to product substitution when they have completed all required testing to support FDA product approval and, in any event, the information shall be submitted no later than 60 days prior to product substitution in the State. On the prescription forms of prescribers, shall be placed a signature line and the words ~~"may substitute" and~~ "may not substitute". The prescriber, in his or her own handwriting, shall place a mark beside ~~either the "may substitute" or~~ "may not substitute" ~~alternatives~~ to direct ~~guide~~ the pharmacist in the dispensing of the prescription. ~~A prescriber placing a mark beside the "may substitute" alternative or failing in his or her own handwriting to place a mark beside either alternative authorizes drug product selection in accordance with this Act.~~ Preprinted or rubber stamped marks, or other deviations from the above prescription format shall not be permitted. The prescriber shall sign the form in his or her own handwriting to authorize the issuance of the prescription. ~~When a person presents a prescription to be dispensed, the pharmacist to whom it is presented may inform the person if the pharmacy has available a different brand name or nonbrand name of the same generic drug prescribed and the price of the different brand name or nonbrand name of the drug product. If the person presenting the prescription is the one to whom the drug is to be administered, the pharmacist may dispense the prescription with the brand prescribed or a different brand name or nonbrand~~

~~name product of the same generic name, if the drug is of lesser unit cost and the patient is informed and agrees to the selection and the pharmacist shall enter such information into the pharmacy record. If the person presenting the prescription is someone other than the one to whom the drug is to be administered the pharmacist shall not dispense the prescription with a brand other than the one specified in the prescription unless the pharmacist has the written or oral authorization to select brands from the person to whom the drug is to be administered or a parent, legal guardian or spouse of that person.~~

In every case in which a selection is made as permitted by the Illinois Food, Drug and Cosmetic Act, the pharmacist shall indicate on the pharmacy record of the filled prescription the name or other identification of the manufacturer of the drug which has been dispensed.

The selection of any drug product by a pharmacist shall not constitute evidence of negligence if the selected nonlegend drug product was of the same dosage form and each of its active ingredients did not vary by more than 1 percent from the active ingredients of the prescribed, brand name, nonlegend drug product. Failure of a prescribing physician to specify that drug product selection is prohibited does not constitute evidence of negligence unless that practitioner has reasonable cause to believe that the health condition of the patient for whom the physician is prescribing warrants the use of the brand

name drug product and not another.

The Department is authorized to employ an analyst or chemist of recognized or approved standing whose duty it shall be to examine into any claimed adulteration, illegal substitution, improper selection, alteration, or other violation hereof, and report the result of his investigation, and if such report justify such action the Department shall cause the offender to be prosecuted.

(Source: P.A. 93-841, eff. 7-30-04; 94-936, eff. 6-26-06.)

(225 ILCS 85/25.5 new)

Sec. 25.5. Centralized prescription filling.

(a) In this Section, "centralized prescription filling" means the filling of a prescription by one pharmacy upon request by another pharmacy to fill or refill the prescription. "Centralized prescription filling" includes the performance by one pharmacy for another pharmacy of other pharmacy duties such as drug utilization review, therapeutic drug utilization review, claims adjudication, and the obtaining of refill authorizations.

(b) A pharmacy licensed under this Act may perform centralized prescription filling for another pharmacy, provided that both pharmacies have the same owner or have a written contract specifying (i) the services to be provided by each pharmacy, (ii) the responsibilities of each pharmacy, and (iii) the manner in which the pharmacies shall comply with

federal and State laws, rules, and regulations.

(225 ILCS 85/25.10 new)

Sec. 25.10. Remote prescription processing.

(a) In this Section, "remote prescription processing" means and includes the outsourcing of certain prescription functions to another pharmacy or licensed non-resident pharmacy, including the dispensing of drugs. "Remote prescription processing" includes any of the following activities related to the dispensing process:

(1) Receiving, interpreting, evaluating, or clarifying prescriptions.

(2) Entering prescription and patient data into a data processing system.

(3) Transferring prescription information.

(4) Performing a drug regimen review.

(5) Obtaining refill or substitution authorizations or otherwise communicating with the prescriber concerning a patient's prescription.

(6) Evaluating clinical data for prior authorization for dispensing.

(7) Discussing therapeutic interventions with prescribers.

(8) Providing drug information or counseling concerning a patient's prescription to the patient or patient's agent, as defined in this Act.

(b) A pharmacy may engage in remote prescription processing under the following conditions:

(1) The pharmacies shall either have the same owner or have a written contract describing the scope of services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with all federal and State laws and regulations related to the practice of pharmacy.

(2) The pharmacies shall share a common electronic file or have technology that allows sufficient information necessary to process a non-dispensing function.

(3) The records may be maintained separately by each pharmacy or in common electronic file shared by both pharmacies, provided that the system can produce a record at either location showing each processing task, the identity of the person performing each task, and the location where each task was performed.

(c) Nothing in this Section shall prohibit an individual employee licensed as a pharmacist from accessing the employer pharmacy's database from a pharmacist's home or other remote location or home verification for the purpose of performing certain prescription processing functions, provided that the pharmacy establishes controls to protect the privacy and security of confidential records.

(225 ILCS 85/25.15 new)

Sec. 25.15. Telepharmacy.

(a) In this Section, "telepharmacy" means the provision of pharmacist care by a pharmacist that is accomplished through the use of telecommunications or other technologies to patients or their agents who are at a distance and are located within the United States, and which follows all federal and State laws, rules, and regulations with regard to privacy and security.

(b) Any pharmacy engaged in the practice of telepharmacy must meet all of the following conditions:

(1) All events involving the contents of an automated pharmacy system must be stored in a secure location and may be recorded electronically.

(2) An automated pharmacy or prescription dispensing machine system may be used in conjunction with the pharmacy's practice of telepharmacy after inspection and approval by the Department.

(3) The pharmacist in charge shall:

(A) be responsible for the practice of telepharmacy performed at a remote pharmacy, including the supervision of any prescription dispensing machine or automated medication system;

(B) ensure that the home pharmacy has sufficient pharmacists on duty for the safe operation and supervision of all remote pharmacies;

(C) ensure, through the use of a video and auditory communication system, that a certified pharmacy

technician at the remote pharmacy has accurately and correctly prepared any prescription for dispensing according to the prescription;

(D) be responsible for the supervision and training of certified pharmacy technicians at remote pharmacies who shall be subject to all rules and regulations; and

(E) ensure that patient counseling at the remote pharmacy is performed by a pharmacist or pharmacist intern.

(225 ILCS 85/25.20 new)

Sec. 25.20. Electronic visual image prescriptions. If a pharmacy's computer system can capture an unalterable electronic visual image of the prescription drug order, the electronic image shall constitute the original prescription and a hard copy of the prescription drug order is not required. The computer system must be capable of maintaining, printing, and providing, upon a request by the Department, the Department's compliance officers, and other authorized agents, all of the prescription information required by State law and regulations of the Department within 72 hours of the request.

(225 ILCS 85/26)

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

Sec. 26. Anti-epileptic drug product selection prohibited.

(a) The General Assembly finds that this Section is necessary for the immediate preservation of the public peace, health, and safety.

(b) In this Section:

"Anti-epileptic drug means (i) any drug prescribed for the treatment of epilepsy or (ii) a drug used to treat or prevent seizures.

"Epilepsy" means a neurological condition characterized by recurrent seizures.

"Seizure" means a brief disturbance in the electrical activity of the brain.

(c) When the prescribing physician has indicated on the original prescription ~~"dispense as written" or~~ "may not substitute", a pharmacist may not interchange an anti-epileptic drug or formulation of an anti-epileptic drug for the treatment of epilepsy without notification and the documented consent of the prescribing physician and the patient or the patient's parent, legal guardian, or spouse. This Section does not apply to medication orders issued for anti-epileptic drugs for any in-patient care in a licensed hospital.

(Source: P.A. 94-936, eff. 6-26-06.)

(225 ILCS 85/27) (from Ch. 111, par. 4147)

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

Sec. 27. Fees.

(a) The Department shall, by rule, provide for a schedule of fees to be paid for licenses and certificates. These fees shall be for the administration and enforcement of this Act, including without limitation original licensure and renewal and restoration of licensure. All fees are nonrefundable.

(b) Applicants ~~The following fees are not refundable. (A) Certificate of pharmacy technician. (1) The fee for application for a certificate of registration as a pharmacy technician is $40. (2) The fee for the renewal of a certificate of registration as a pharmacy technician shall be calculated at the rate of $25 per year. (B) License as a pharmacist. (1) The fee for application for a license is $75. (2) In addition,~~ ~~applicants~~ for any examination as a ~~registered~~ pharmacist shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

~~(3) The fee for a license as a registered pharmacist registered or licensed under the laws of another state or territory of the United States is $200.~~

~~(4) The fee upon the renewal of a license shall be calculated at the rate of $75 per year.~~

~~(5) The fee for the restoration of a certificate other than from inactive status is $10 plus all lapsed renewal fees.~~

(c) ~~(6)~~ Applicants for the preliminary diagnostic examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

~~(7) The fee to have the scoring of an examination authorized by the Department reviewed and verified is $20 plus any fee charged by the applicable testing service.~~

~~(C) License as a pharmacy.~~

~~(1) The fee for application for a license for a pharmacy under this Act is $100.~~

~~(2) The fee for the renewal of a license for a pharmacy under this Act shall be calculated at the rate of $100 per year.~~

~~(3) The fee for the change of a pharmacist-in-charge is $25.~~

~~(D) General Fees.~~

~~(1) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license~~

~~that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is $20. No fee is required for name and address changes on Department records when no duplicate certification is issued~~.

~~(2) The fee for a certification of a registrant's record for any purpose is $20.~~

~~(3) The fee to have the scoring of an examination administered by the Department reviewed and verified is $20.~~

~~(4) The fee for a wall certificate showing licensure or registration shall be the actual cost of producing the certificate.~~

~~(5) The fee for a roster of persons registered as pharmacists or registered pharmacies in this State shall be the actual cost of producing the roster.~~

~~(6) The fee for pharmacy licensing, disciplinary or investigative records obtained pursuant to a subpoena is $1 per page.~~

(d) All fees, fines, or penalties ~~(E) Except as provided in subsection (F), all moneys~~ received by the Department under this Act shall be deposited in the Illinois State Pharmacy Disciplinary Fund hereby created in the State Treasury and shall be used by the Department in the exercise of its powers and performance of its duties under this Act, including, but not limited to, the provision for evidence in pharmacy

investigations. ~~only for the following purposes: (a) by the State Board of Pharmacy in the exercise of its powers and performance of its duties, as such use is made by the Department upon the recommendations of the State Board of Pharmacy, (b) for costs directly related to license renewal of persons licensed under this Act, and (c) for direct and allocable indirect costs related to the public purposes of the Department of Professional Regulation.~~

Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law (20 ILCS 2105/2105-300).

The moneys deposited in the Illinois State Pharmacy Disciplinary Fund shall be invested to earn interest which shall accrue to the Fund. ~~The Department shall present to the Board for its review and comment all appropriation requests from the Illinois State Pharmacy Disciplinary Fund. The Department shall give due consideration to any comments of the Board in making appropriation requests.~~

(e) ~~(F)~~ From the money received for license renewal fees, $5 from each pharmacist fee, and $2.50 from each pharmacy technician fee, shall be set aside within the Illinois State Pharmacy Disciplinary Fund for the purpose of supporting a substance abuse program for pharmacists and pharmacy technicians. ~~The State Board of Pharmacy shall, pursuant to all provisions of the Illinois Procurement Code, determine how and~~

~~to whom the money set aside under this subsection is disbursed.~~

~~(G) (Blank).~~

(Source: P.A. 91-239, eff. 1-1-00; 92-880, eff. 1-1-04.)

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

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

Sec. 30. (a) In accordance with Section 11 of this Act, the Department may refuse to issue, restore, or renew, or may revoke, suspend, place on probation, or reprimand ~~or take other disciplinary action~~ as the Department may deem proper with regard to any license or certificate of registration or may impose a fine upon a licensee or registrant not to exceed $10,000 per violation for any one or combination of the following causes:

1. Material misstatement in furnishing information to the Department.

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

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

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

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

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

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

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

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

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

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

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

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

14. The applicant~~,~~ or licensee has been convicted in state or federal court of or entered a plea of guilty, nolo contendere, or the equivalent in a state or federal court

to any crime which is a felony or any misdemeanor related to the practice of pharmacy, of which an essential element is dishonesty.

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

16. Willfully making or filing false records or reports in the practice of pharmacy, including, but not limited to false records to support claims against the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Public Aid Code.

17. Gross and willful overcharging for professional services including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing false statements for collection of monies for services not rendered from the medical assistance program of the Department of Healthcare and Family Services (formerly Department of Public Aid) under the Public Aid Code.

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

19. Upon a finding of a substantial discrepancy in a Department audit of a prescription drug, including controlled substances, as that term is defined in this Act

or in the Illinois Controlled Substances Act.

20. Physical or mental illness or any other impairment or disability, including without limitation deterioration through the aging process or loss of motor skills that ~~which~~ results in the inability to practice with reasonable judgment, skill or safety, or mental incompetence, ~~incompetency~~ as declared by a court of competent jurisdiction.

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

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

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

24. Failing to report within 60 days to the Department any adverse final action taken against a pharmacist, pharmacist technician, or certified pharmacist technician by another licensing jurisdiction in any other state or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency, or any court for acts or conduct similar to acts or conduct that would constitute grounds for discipline as defined in this

Section.

25. Failing to comply with a subpoena issued in accordance with Section 35.5 of this Act.

(b) The Department may refuse to issue or may suspend the license or registration 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 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.

(c) The Department shall revoke the license or certificate of registration issued under the provisions of this Act or any prior Act of this State of any person who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or certificate of registration issued under the provisions of this Act or any prior Act of this State is revoked under this subsection (c) shall be prohibited from engaging in the practice of pharmacy in this State.

(d) The Department may adopt rules for the imposition of fines in disciplinary cases, not to exceed $10,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of

conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Illinois State Pharmacy Disciplinary Fund. ~~In any order issued in resolution of a disciplinary proceeding, the Board may request any licensee found guilty of a charge involving a significant violation of subsection (a) of Section 5, or paragraph 19 of Section 30 as it pertains to controlled substances, to pay to the Department a fine not to exceed $2,000.~~

(e) The entry of an order or judgment by any circuit court establishing that any person holding a license or certificate under this Act is a person in need of mental treatment operates as a suspension of that license. A licensee may resume his or her practice only upon the entry of an order of the Department based upon a finding by the Board that he or she has been determined to be recovered from mental illness by the court and upon the Board's recommendation that the licensee be permitted to resume his or her practice. ~~In any order issued in resolution of a disciplinary proceeding, in addition to any other disciplinary action, the Board may request any licensee found guilty of noncompliance with the continuing education requirements of Section 12 to pay the Department a fine not to exceed $1000.~~

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

(g) In enforcing this Section, the Board or the Department,

upon a showing of a possible violation, may compel any licensee or applicant for licensure under this Act to submit to a mental or physical examination or both, as required by and at the expense of the Department. The examining physician shall be those specifically designated by the Department. The Board or the Department may order the examining physician 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 communication between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to a mental or physical examination when directed shall be grounds for suspension of his or her license until such time as the individual 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 pharmacist or pharmacy technician unable to practice because of the reasons set forth in this Section, the Board shall require such pharmacist or pharmacy technician to submit to care, counseling, or treatment by physicians approved or designated by the Board as a condition for continued, reinstated, or renewed licensure to practice. Any pharmacist or pharmacy technician 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 or to complete a required program of care, counseling, or treatment, as determined by the chief pharmacy coordinator or a deputy pharmacy coordinator, shall be referred to the Secretary for a determination as to whether the licensee shall have his or her license suspended immediately, pending a hearing by the Board. In instances in which the Secretary immediately suspends a license under this subsection (g), a hearing upon such person's license must be convened by the Board within 15 days after such suspension and completed without appreciable delay. The Board shall have the authority to review the subject pharmacist's or pharmacy technician's record of treatment and counseling regarding the impairment.

(Source: P.A. 92-880, eff. 1-1-04; revised 12-15-05.)

(225 ILCS 85/35.1) (from Ch. 111, par. 4155.1)

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

Sec. 35.1. (a) If any person violates the provision of this Act, the Director may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, or the State's Attorney of any county in which the action is brought, petition, for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in such court, the court may issue a temporary restraining order, without notice or

bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as a pharmacist or hold himself out as a pharmacist or operate a pharmacy or drugstore, including a nonresident ~~mail-order~~ pharmacy under Section 16a, without being licensed under the provisions of this Act, then any licensed pharmacist, any interested party or any person injured thereby may, in addition to the Director, petition for relief as provided in subsection (a) of this Section.

Whoever knowingly practices or offers to practice in this State without being appropriately licensed or registered under this Act shall be guilty of a Class A misdemeanor and for each subsequent conviction, shall be guilty of a Class 4 felony.

(c) Whenever in the opinion of the Department any person not licensed in good standing under this Act violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease

and desist to be issued forthwith.

(Source: P.A. 92-678, eff. 7-16-02.)

(225 ILCS 85/35.2) (from Ch. 111, par. 4155.2)

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

Sec. 35.2. The Department's pharmacy investigators may investigate the actions of any applicant or of any person or persons holding or claiming to hold a license or registration. The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license or certificate, at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Board, direct him or her to file his or her written answer thereto to the Board under oath within 20 days after the service on him or her of such notice and inform him or her that if he or she fails to file such answer default will be taken against him or her and his or her license or certificate may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of his or her practice, provided for herein. Such written notice may be served by personal delivery or certified or registered mail to the respondent at his or her ~~the~~ address of record ~~his last notification to the Department~~. At the time and place fixed in the notice, the Board shall

proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to the defense thereto. Such hearing may be continued from time to time. In case the accused person, after receiving notice, fails to file an answer, his or her license or certificate may in the discretion of the Director, having received first the recommendation of the Board, be suspended, revoked, placed on probationary status, or the Director may take whatever disciplinary action as he or she may deem proper as provided herein, including limiting the scope, nature, or extent of said person's practice, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

(Source: P.A. 88-428.)

(225 ILCS 85/35.5) (from Ch. 111, par. 4155.5)

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

Sec. 35.5. The Department shall have power to subpoena and bring before it any person in this State and to take testimony, either orally or by deposition or both, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in civil cases in circuit courts of this State. The Department may subpoena and compel the production of documents, papers, files, books, and records in connection with any hearing or investigation.

The Director, and any member of the Board, shall each have power to administer oaths to witnesses at any hearing which the Department is authorized to conduct under this Act, and any other oaths required or authorized to be administered by the Department hereunder.

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

(225 ILCS 85/35.7) (from Ch. 111, par. 4155.7)

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

Sec. 35.7. Notwithstanding the provisions of Section 35.6 of this Act, the Director shall have the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action before the Board for refusal to issue, renew, or discipline of a license or certificate. The Director shall notify the Board of any such appointment. The hearing officer shall have full authority to conduct the hearing. There shall be present at least one member of the Board at any such hearing. The hearing officer shall report his findings of fact, conclusions of law and recommendations to the Board and the Director. The Board shall have 60 days from receipt of the report to review the report of the hearing officer and present their findings of fact, conclusions of law, and recommendations to the Director. If the Board fails to present its report within the 60 day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7

calendar days after the request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order. If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order. If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary. Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners. If the Secretary disagrees with the recommendation of the Board or the hearing officer, the Secretary may issue an order in contravention of the recommendation. ~~the Director may issue an order based on~~

~~the report of the hearing officer. However, if the Board does present its report within the specified 60 days, the Director's order shall be based upon the report of the Board.~~

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

(225 ILCS 85/35.10) (from Ch. 111, par. 4155.10)

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

Sec. 35.10. None of the disciplinary functions, powers and duties enumerated in this Act shall be exercised by the Department except upon the review ~~action and report in writing~~ of the Board.

In all instances, under this Act, in which the Board has rendered a recommendation to the Director with respect to a particular license or certificate, the Director shall, in the event that he or she disagrees with or takes action contrary to the recommendation of the Board, file with the Board ~~and the Secretary of State~~ his or her specific written reasons of disagreement with the Board. ~~Such reasons shall be filed within 30 days of the occurrence of the Director's contrary position having been taken.~~

~~The action and report in writing of a majority of the Board designated is sufficient authority upon which the Director may act.~~

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

(225 ILCS 85/35.12) (from Ch. 111, par. 4155.12)

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

Sec. 35.12. Notwithstanding the provisions herein concerning the conduct of hearings and recommendations for disciplinary actions, the Director shall have the authority to negotiate agreements with licensees and registrants resulting in disciplinary consent orders provided a Board member is present and the discipline is recommended by the Board member. Such consent orders may provide for any of the forms of discipline otherwise provided herein. Such consent orders shall provide that they were not entered into as a result of any coercion by the Department. ~~The Director shall forward copies of all final consent orders to the Board within 30 days of their entry.~~

(Source: P.A. 88-428.)

(225 ILCS 85/35.16) (from Ch. 111, par. 4155.16)

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

Sec. 35.16. The Director may temporarily suspend the license of a pharmacist, pharmacy technician or registration as a distributor, without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 35.2 of this Act, if the Director finds that evidence in his possession indicates that a continuation in practice would constitute an imminent danger to the public. In the event that the Director suspends, temporarily, this license or certificate without a hearing, a hearing by the Department must

be held within 15 ~~10~~ days after such suspension has occurred, and be concluded without appreciable delay.
(Source: P.A. 85-796.)

(225 ILCS 85/35.19) (from Ch. 111, par. 4155.19)
(Section scheduled to be repealed on January 1, 2008)
Sec. 35.19. Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony. All criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of The Illinois Controlled Substances Act, shall be deposited into the Illinois State Pharmacy Disciplinary ~~Professional Regulation Evidence~~ Fund.
(Source: P.A. 86-685.)

Section 75. The Veterinary Medicine and Surgery Practice Act of 2004 is amended by changing Section 17 as follows:

(225 ILCS 115/17) (from Ch. 111, par. 7017)
(Section scheduled to be repealed on January 1, 2014)
Sec. 17. 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 container containing the same

a label indicating: (a) the date on which such drug or medicine is dispensed, (b) the name of the owner, (c) the last name of the person dispensing such drug or medicine, (d) directions for use thereof, including dosage and quantity, and (e) the proprietary or generic name of the drug or medicine, except as otherwise authorized by rules of the Department. This Section shall not apply to drugs and medicines that are in a container which bears a label of the manufacturer with information describing its contents that are in compliance with requirements of the Federal Food, Drug, and Cosmetic Act or the Illinois Food, Drug and Cosmetic Act, approved June 29, 1967, as amended, and which are dispensed without consideration by a practitioner licensed under this Act. "Drug" and "medicine" have the meanings ascribed to them in the Pharmacy Practice Act ~~of 1987~~, as amended, and "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.

(Source: P.A. 85-1209.)

Section 80. The Wholesale Drug Distribution Licensing Act is amended by changing Sections 15, 20, and 25, and by adding Sections 3, 24, 55, 56, 57, 58, and 59 as follows:

(225 ILCS 120/3 new)

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

Sec. 3. References to Department or Director of Professional Regulation. References in this Act (i) to the Department of Professional Regulation are deemed, in appropriate contexts, to be references to the Department of Financial and Professional Regulation and (ii) to the Director of Professional Regulation are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(225 ILCS 120/15) (from Ch. 111, par. 8301-15)

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

Sec. 15. Definitions. As used in this Act:

"Authentication" means the affirmative verification, before any wholesale distribution of a prescription drug occurs, that each transaction listed on the pedigree has occurred.

"Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between a wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in Section 1504 of the Internal Revenue Code, complies with the following:

(1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing the

ongoing relationship; and

(2) The wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

"Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

"Blood component" means that part of blood separated by physical or mechanical means.

"Board" means the State Board of Pharmacy of the Department of Professional Regulation.

"Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the drugs to a group of chain or mail order pharmacies that have the same common ownership and control. Notwithstanding any other provision of this Act, a chain pharmacy warehouse shall be considered part of the normal distribution channel.

"Co-licensed partner or product" means an instance where one or more parties have the right to engage in the manufacturing or marketing of a prescription drug, consistent with the FDA's implementation of the Prescription Drug Marketing Act.

"Department" means the Department of Financial and Professional Regulation.

~~"Director" means the Director of Professional Regulation.~~

"Drop shipment" means the sale of a prescription drug to a wholesale distributor by the manufacturer of the prescription drug or that manufacturer's co-licensed product partner, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor or by an authorized distributor of record that purchased the product directly from the manufacturer or one of these entities whereby the wholesale distributor or chain pharmacy warehouse takes title but not physical possession of such prescription drug and the wholesale distributor invoices the pharmacy, chain pharmacy warehouse, or other person authorized by law to dispense or administer such drug to a patient and the pharmacy, chain pharmacy warehouse, or other authorized person receives delivery of the prescription drug directly from the manufacturer, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor or from an authorized distributor of record that purchased the product directly from the manufacturer or one of these entities.

"Drug sample" means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

"Facility" means a facility of a wholesale distributor where prescription drugs are stored, handled, repackaged, or offered for sale.

"FDA" means the United States Food and Drug Administration.

"Manufacturer" means a person licensed or approved by the

FDA to engage in the manufacture of drugs or devices, consistent with the definition of "manufacturer" set forth in the FDA's regulations and guidances implementing the Prescription Drug Marketing Act.

"Manufacturer's exclusive distributor" means anyone who contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug. A manufacturer's exclusive distributor must be licensed as a wholesale distributor under this Act and, in order to be considered part of the normal distribution channel, must also be an authorized distributor of record.

"Normal distribution channel" means a chain of custody for a prescription drug that goes, directly or by drop shipment, from (i) a manufacturer of the prescription drug, (ii) that manufacturer to that manufacturer's co-licensed partner, (iii) that manufacturer to that manufacturer's third-party logistics provider, or (iv) that manufacturer to that manufacturer's exclusive distributor to:

(1) a pharmacy or to other designated persons authorized by law to dispense or administer the drug to a patient;

(2) a wholesale distributor to a pharmacy or other designated persons authorized by law to dispense or

administer the drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer the drug to a patient;

(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy or other designated persons authorized by law to dispense or administer the drug to the patient;

(5) an authorized distributor of record to one other authorized distributor of record to an office-based health care practitioner authorized by law to dispense or administer the drug to the patient; or

(6) an authorized distributor to a pharmacy or other persons licensed to dispense or administer the drug.

"Pedigree" means a document or electronic file containing information that records each wholesale distribution of any given prescription drug from the point of origin to the final wholesale distribution point of any given prescription drug.

~~"Manufacturer" means anyone who is engaged in the manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug.~~

"Person" means and includes a natural person, partnership, association or corporation.

"Pharmacy distributor" means any pharmacy licensed in this State or hospital pharmacy that is engaged in the delivery or distribution of prescription drugs either to any other pharmacy licensed in this State or to any other person or entity including, but not limited to, a wholesale drug distributor engaged in the delivery or distribution of prescription drugs who is involved in the actual, constructive, or attempted transfer of a drug in this State to other than the ultimate consumer except as otherwise provided for by law.

"Prescription drug" means any human drug, including any biological product (except for blood and blood components intended for transfusion or biological products that are also medical devices), required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and bulk drug substances ~~active ingredients~~ subject to ~~subsection (b) of~~ Section 503 of the Federal Food, Drug and Cosmetic Act.

"Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist responsible for dispensing the product to a patient.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other services on

behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition. A third party logistics provider must be licensed as a wholesale distributor under this Act and, in order to be considered part of the normal distribution channel, must also be an authorized distributor of record.

"Wholesale distribution" ~~or "wholesale distributions"~~ means the distribution of prescription drugs to persons other than a consumer or patient, but does not include any of the following:

(1) ~~(a)~~ Intracompany sales of prescription drugs, meaning (i)~~, defined as~~ any transaction or transfer between any division, subsidiary, parent, or affiliated or related company under the common ownership and control of a corporate entity or (ii) any transaction or transfer between co-licensees of a co-licensed product.

(2) The sale, purchase, distribution, trade, or transfer of a prescription drug or offer to sell, purchase, distribute, trade, or transfer a prescription drug for emergency medical reasons.

(3) The distribution of prescription drug samples by manufacturers' representatives.

(4) Drug returns, when conducted by a hospital, health care entity, or charitable institution in accordance with federal regulation.

(5) The sale of minimal quantities of prescription drugs by retail pharmacies to licensed practitioners for office use.

(6) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription.

(7) The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy or pharmacies from or with another pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets.

(8) The sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply the prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel.

(9) The delivery of or the offer to deliver a prescription drug by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs when the common carrier does not store, warehouse, or take legal ownership of the prescription drug.

(10) The sale or transfer from a retail pharmacy, mail order pharmacy, or chain pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs to the original manufacturer, the originating wholesale distributor, or a third party returns processor. ~~(b) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of a group organization.~~

~~(c) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in subsection (c)(3) of Section 501 of the U.S. Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law.~~

~~(d) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this Act, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise.~~

~~(e) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Act, "emergency medical~~

~~reasons" include transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.~~

~~(f) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription.~~

~~(g) The distribution of drug samples by manufacturers' representatives or distributors' representatives.~~

~~(h) The sale, purchase, or trade of blood and blood components intended for transfusion.~~

"Wholesale drug distributor" means anyone ~~any person or entity~~ engaged in the wholesale distribution of prescription drugs, including without limitation~~, but not limited to,~~ manufacturers; repackers; own label distributors; jobbers; private label distributors; brokers; warehouses, including manufacturers' and distributors' warehouses; manufacturer's exclusive distributors; and authorized distributors of record; drug wholesalers or distributors; independent wholesale drug traders; specialty wholesale distributors; third party logistics providers; and retail pharmacies that conduct wholesale distribution; and chain pharmacy warehouses that conduct wholesale distribution. In order to be considered part of the normal distribution channel, a wholesale distributor must also be an authorized distributor of record~~, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct~~

~~wholesale distributions, including, but not limited to, any pharmacy distributor as defined in this Section. A wholesale drug distributor shall not include any for hire carrier or person or entity hired solely to transport prescription drugs~~.

(Source: P.A. 87-594.)

(225 ILCS 120/24 new)

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

Sec. 24. Bond required. The Department shall require every wholesale distributor applying for licensure under this Act to submit a bond not to exceed $100,000 or another equivalent means of security acceptable to the Department, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to a fund established by the Department. Chain pharmacy warehouses that are not engaged in wholesale distribution are exempt from the bond requirement of this Section. The purpose of the bond is to secure payment of any fines or penalties imposed by the Department and any fees and costs incurred by the Department regarding that license, which are authorized under State law and which the licensee fails to pay 30 days after the fines, penalties, or costs become final. The Department may make a claim against the bond or security until one year after the licensee's license ceases to be valid. A single bond may suffice to cover all facilities operated by an applicant or its affiliates licensed in this State.

The Department shall establish a fund, separate from its other accounts, in which to deposit the wholesale distributor bonds required under this Section.

(225 ILCS 120/25) (from Ch. 111, par. 8301-25)

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

Sec. 25. Wholesale drug distributor licensing requirements.

~~All wholesale distributors and pharmacy distributors, wherever located, who engage in wholesale distribution into, out of, or within the State shall be subject to the following requirements:~~

(a) Every resident wholesale distributor who engages in the wholesale distribution of prescription drugs must be licensed by the Department, and every non-resident wholesale distributor must be licensed in this State if it ships prescription drugs into this State, in accordance with this Act, before engaging in wholesale distributions of wholesale prescription drugs. ~~No person or distribution outlet shall act as a wholesale drug distributor without first obtaining a license to do so from the Department and paying any reasonable fee required by the Department.~~

(b) The Department shall require without limitation all of the following information from each applicant for licensure under this Act:

(1) The name, full business address, and telephone

number of the licensee.

(2) All trade or business names used by the licensee.

(3) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs.

(4) The type of ownership or operation, such as a partnership, corporation, or sole proprietorship.

(5) The name of the owner or operator of the wholesale distributor, including:

(A) if a person, the name of the person;

(B) if a partnership, the name of each partner and the name of the partnership;

(C) if a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation; and

(D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity.

(6) A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs.

(7) The name of the designated representative for the wholesale distributor, together with the personal information statement and fingerprints, as required under subsection (c) of this Section.

(8) Minimum liability insurance and other insurance as

defined by rule.

(9) Any additional information required by the Department. ~~may grant a temporary license when a wholesale drug distributor first applies for a license to operate within this State. A temporary license shall only be granted after the applicant meets the inspection requirements for regular licensure and shall remain valid until the Department finds that the applicant meets or fails to meet the requirements for regular licensure. Nevertheless, no temporary license shall be valid for more than 90 days from the date of issuance. Any temporary license issued under this subsection shall be renewable for a similar period of time not to exceed 90 days under policies and procedures prescribed by the Department.~~

(c) Each wholesale distributor must designate an individual representative who shall serve as the contact person for the Department. This representative must provide the Department with all of the following information:

(1) Information concerning whether the person has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or State law regulating the possession, control, or distribution of prescription drugs or criminal violations, together with details concerning any such event.

(2) A description of any involvement by the person with any business, including any investments, other than the

ownership of stock in a publicly traded company or mutual fund which manufactured, administered, prescribed, distributed, or stored pharmaceutical products and any lawsuits in which such businesses were named as a party.

(3) A description of any misdemeanor or felony criminal offense of which the person, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the person pled guilty or nolo contendere. If the person indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense, the applicant must, within 15 days after the disposition of the appeal, submit to the Department a copy of the final written order of disposition.

(4) The designated representative of an applicant for licensure as a wholesale drug distributor shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost

of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or to a vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Department may adopt any rules necessary to implement this Section.

The designated representative of a licensee shall receive and complete continuing training in applicable federal and State laws governing the wholesale distribution of prescription drugs. ~~No license shall be issued or renewed for a wholesale drug distributor to operate unless the wholesale drug distributor shall operate in a manner prescribed by law and according to the rules and regulations promulgated by the Department.~~

(d) The Department may not issue a wholesale distributor license to an applicant, unless the Department first:

(1) ensures that a physical inspection of the facility satisfactory to the Department has occurred at the address provided by the applicant, as required under item (1) of subsection (b) of this Section; and

(2) determines that the designated representative meets each of the following qualifications:

(A) He or she is at least 21 years of age.

(B) He or she has been employed full-time for at least 3 years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs.

(C) He or she is employed by the applicant full time in a managerial level position.

(D) He or she is actively involved in and aware of the actual daily operation of the wholesale distributor.

(E) He or she is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized, including without limitation sick leave and vacation leave.

(F) He or she is serving in the capacity of a designated representative for only one applicant at a time, except where more than one licensed wholesale distributor is co-located in the same facility and such wholesale distributors are members of an affiliated group, as defined in Section 1504 of the Internal Revenue Code. ~~require a separate license for each facility directly or indirectly owned or operated by the same business entity within this State, or for a parent entity with divisions, subsidiaries, and affiliate companies within this State when operations~~

~~are conducted at more than one location and there exists joint ownership and control among all the entities.~~

(e) If a wholesale distributor distributes prescription drugs from more than one facility, the wholesale distributor shall obtain a license for each facility. ~~As a condition for receiving and renewing any wholesale drug distributor license issued under this Act, each applicant shall satisfy the Department that it has and will continuously maintain:~~

~~(1) acceptable storage and handling conditions plus facilities standards;~~

~~(2) minimum liability and other insurance as may be required under any applicable federal or State law;~~

~~(3) a security system that includes after hours, central alarm or comparable entry detection capability; restricted premises access; adequate outside perimeter lighting; comprehensive employment applicant screening; and safeguards against employee theft;~~

~~(4) an electronic, manual, or any other reasonable system of records, describing all wholesale distributor activities governed by this Act for the 2 year period following disposition of each product and reasonably accessible during regular business hours as defined by the Department's rules in any inspection authorized by the Department;~~

~~(5) officers, directors, managers, and other persons~~

~~in charge of wholesale drug distribution, storage, and handling who must at all times demonstrate and maintain their capability of conducting business according to sound financial practices as well as State and federal law;~~

~~(6) complete, updated information, to be provided the Department as a condition for obtaining and renewing a license, about each wholesale distributor to be licensed under this Act, including all pertinent licensee ownership and other key personnel and facilities information deemed necessary for enforcement of this Act. Any changes in this information shall be submitted at the time of license renewal or within 45 days from the date of the change;~~

~~(7) written policies and procedures that assure reasonable wholesale distributor preparation for, protection against and handling of any facility security or operation problems, including, but not limited to, those caused by natural disaster or government emergency; inventory inaccuracies or product shipping and receiving; outdated product or other unauthorized product control; appropriate disposition of returned goods; and product recalls;~~

~~(8) sufficient inspection procedures for all incoming and outgoing product shipments; and~~

~~(9) operations in compliance with all federal legal requirements applicable to wholesale drug distribution.~~

(f) The information provided under this Section may not be

disclosed to any person or entity other than the Department or another government entity in need of such information for licensing or monitoring purposes. ~~Department shall consider, at a minimum, the following factors in reviewing the qualifications of persons who engage in wholesale distribution of prescription drugs in this State:~~

~~(1) any conviction of the applicant under any federal, State, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;~~

~~(2) any felony convictions of the applicant under federal, State, or local laws;~~

~~(3) the applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;~~

~~(4) the furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;~~

~~(5) suspension or revocation by federal, State, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drug, including controlled substances;~~

~~(6) compliance with licensing requirements under previously granted licenses, if any;~~

~~(7) compliance with requirements to maintain and make available to the Department or to federal, State, or local~~

~~law enforcement officials those records required by this Act; and~~

~~(8) any other factors or qualifications the Department considers relevant to and consistent with the public health and safety, including whether the granting of the license would not be in the public interest.~~

~~(9) All requirements set forth in this subsection shall conform to wholesale drug distributor licensing guidelines formally adopted by the U.S. Food and Drug Administration (FDA). In case of conflict between any wholesale drug distributor licensing requirement imposed by the Department and any FDA wholesale drug distributor licensing guideline, the FDA guideline shall control.~~

~~(g) An agent or employee of any licensed wholesale drug distributor need not seek licensure under this Section and may lawfully possess pharmaceutical drugs when the agent or employee is acting in the usual course of business or employment.~~

~~(h) The issuance of a license under this Act shall not change or affect tax liability imposed by the State on any wholesale drug distributor.~~

~~(i) A license issued under this Act shall not be sold, transferred, or assigned in any manner.~~

(Source: P.A. 94-942, eff. 1-1-07.)

(225 ILCS 120/55) (from Ch. 111, par. 8301-55)

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

Sec. 55. Discipline; grounds.

(a) The Department may refuse to issue, restore, or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper for any of the following reasons:

(1) Violation of this Act or its rules.

(2) Aiding or assisting another person in violating any provision of this Act or its rules.

(3) Failing, within 60 days, to respond to a written requirement made by the Department for information.

(4) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. This includes violations of "good faith" as defined by the Illinois Controlled Substances Act and applies to all prescription drugs.

(5) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

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

(7) Conviction of <u>or entry of a plea of guilty or nolo contendere by</u> the applicant or licensee, or any officer, director, manager or shareholder who owns more than 5% of stock, <u>to any crime under the laws of the United States or</u>

any state or territory of the United States that is a felony or a misdemeanor, of which an essential element is dishonesty, or any crime that is directly related to the practice of this profession ~~in State or federal court of any crime that is a felony~~.

(8) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to function with reasonable judgment, skill, or safety.

(b) The Department may refuse to issue, restore, or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem property including fines not to exceed $10,000 per offense ~~$1000~~ for any of the following reasons:

(1) Material misstatement in furnishing information to the Department.

(2) Making any misrepresentation for the purpose of obtaining a license.

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

(4) A finding that licensure or registration has been applied for or obtained by fraudulent means.

(5) Willfully making or filing false records or reports.

(6) A finding of a substantial discrepancy in a

Department audit of a prescription drug, including a controlled substance as that term is defined in this Act or in the Illinois Controlled Substances Act.

(c) The Department may refuse to issue or may suspend the license or registration 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 tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the time the requirements of the tax Act are satisfied.

(d) The Department shall revoke the license or certificate of registration issued under this Act or any prior Act of this State of any person who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or certificate of registration issued under this Act or any prior Act of this State is revoked under this subsection (c) shall be prohibited from engaging in the practice of pharmacy in this State.

(Source: P.A. 94-556, eff. 9-11-05.)

(225 ILCS 120/56 new)

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

Sec. 56. Restrictions on transactions.

(a) A licensee shall receive prescription drug returns or exchanges from a pharmacy or other persons authorized to administer or dispense drugs or a chain pharmacy warehouse pursuant to the terms and conditions of the agreement between the wholesale distributor and the pharmacy or chain pharmacy warehouse. Returns of expired, damaged, recalled, or otherwise non-saleable pharmaceutical products shall be distributed by the receiving wholesale distributor only to either the original manufacturer or a third party returns processor. Returns or exchanges of prescription drugs, saleable or otherwise, including any redistribution by a receiving wholesaler, shall not be subject to the pedigree requirements of Section 57 of this Act, so long as they are exempt from the pedigree requirement of the FDA's currently applicable Prescription Drug Marketing Act guidance. Both licensees under this Act and pharmacies or other persons authorized to administer or dispense drugs shall be accountable for administering their returns process and ensuring that the aspects of this operation are secure and do not permit the entry of adulterated and counterfeit product.

(b) A manufacturer or wholesale distributor licensed under this Act may furnish prescription drugs only to a person licensed by the appropriate state licensing authorities. Before furnishing prescription drugs to a person not known to the manufacturer or wholesale distributor, the manufacturer or wholesale distributor must affirmatively verify that the

person is legally authorized to receive the prescription drugs by contacting the appropriate state licensing authorities.

(c) Prescription drugs furnished by a manufacturer or wholesale distributor licensed under this Act may be delivered only to the premises listed on the license, provided that the manufacturer or wholesale distributor may furnish prescription drugs to an authorized person or agent of that person at the premises of the manufacturer or wholesale distributor if:

(1) the identity and authorization of the recipient is properly established; and

(2) this method of receipt is employed only to meet the immediate needs of a particular patient of the authorized person.

(d) Prescription drugs may be furnished to a hospital pharmacy receiving area, provided that a pharmacist or authorized receiving personnel signs, at the time of delivery, a receipt showing the type and quantity of the prescription drug received. Any discrepancy between the receipt and the type and quantity of the prescription drug actually received shall be reported to the delivering manufacturer or wholesale distributor by the next business day after the delivery to the pharmacy receiving area.

(e) A manufacturer or wholesale distributor licensed under this Act may not accept payment for, or allow the use of, a person or entity's credit to establish an account for the purchase of prescription drugs from any person other than the

owner of record, the chief executive officer, or the chief financial officer listed on the license of a person or entity legally authorized to receive the prescription drugs. Any account established for the purchase of prescription drugs must bear the name of the licensee. This subsection (e) shall not be construed to prohibit a pharmacy or chain pharmacy warehouse from receiving prescription drugs if payment for the prescription drugs is processed through the pharmacy's or chain pharmacy warehouse's contractual drug manufacturer or wholesale distributor.

(225 ILCS 120/57 new)

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

Sec. 57. Pedigree.

(a) Each person who is engaged in the wholesale distribution of prescription drugs, including repackagers, but excluding the original manufacturer of the finished form of the prescription drug, that leave or have ever left the normal distribution channel shall, before each wholesale distribution of the drug, provide a pedigree to the person who receives the drug. A retail pharmacy, mail order pharmacy, or chain pharmacy warehouse must comply with the requirements of this Section only if the pharmacy or chain pharmacy warehouse engages in the wholesale distribution of prescription drugs. On or before July 1, 2009, the Department shall determine a targeted implementation date for electronic track and trace pedigree

technology. This targeted implementation date shall not be sooner than July 1, 2010. Beginning on the date established by the Department, pedigrees may be implemented through an approved and readily available system that electronically tracks and traces the wholesale distribution of each prescription drug starting with the sale by the manufacturer through acquisition and sale by any wholesale distributor and until final sale to a pharmacy or other authorized person administering or dispensing the prescription drug. This electronic tracking system shall be deemed to be readily available only upon there being available a standardized system originating with the manufacturers and capable of being used on a wide scale across the entire pharmaceutical chain, including manufacturers, wholesale distributors, and pharmacies. Consideration must also be given to the large-scale implementation of this technology across the supply chain and the technology must be proven to have no negative impact on the safety and efficacy of the pharmaceutical product.

(b) Each person who is engaged in the wholesale distribution of a prescription drug who is provided a pedigree for a prescription drug and attempts to further distribute that prescription drug, including repackagers, but excluding the original manufacturer of the finished form of the prescription drug, must affirmatively verify before any distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.

(c) The pedigree must include all necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer or the manufacturer's third party logistics provider, co-licensed product partner, or exclusive distributor through acquisition and sale by any wholesale distributor or repackager, until final sale to a pharmacy or other person dispensing or administering the drug. This necessary chain of distribution information shall include, without limitation all of the following:

(1) The name, address, telephone number and, if available, the e-mail address of each owner of the prescription drug and each wholesale distributor of the prescription drug.

(2) The name and address of each location from which the product was shipped, if different from the owner's.

(3) Transaction dates.

(4) Certification that each recipient has authenticated the pedigree.

(d) The pedigree must also include without limitation all of the following information concerning the prescription drug:

(1) The name and national drug code number of the prescription drug.

(2) The dosage form and strength of the prescription drug.

(3) The size of the container.

(4) The number of containers.

(5) The lot number of the prescription drug.

(6) The name of the manufacturer of the finished dosage form.

(e) Each pedigree or electronic file shall be maintained by the purchaser and the wholesale distributor for at least 3 years from the date of sale or transfer and made available for inspection or use within 5 business days upon a request of the Department.

(225 ILCS 120/58 new)

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

Sec. 58. Prohibited acts. It is unlawful for a person to perform or cause the performance of or aid and abet any of the following acts:

(1) Failure to obtain a license in accordance with this Act or operating without a valid license when a license is required by this Act.

(2) If the requirements of subsection (a) of Section 56 of this Act are applicable and are not met, the purchasing or otherwise receiving of a prescription drug from a pharmacy.

(3) If licensure is required pursuant to subsection (b) of Section 56 of this Act, the sale, distribution, or transfer of a prescription drug to a person that is not authorized under the law of the jurisdiction in which the person receives the prescription drug to receive the

prescription drug.

(4) Failure to deliver prescription drugs to specified premises, as required by subsection (c) of Section 56 of this Act.

(5) Accepting payment or credit for the sale of prescription drugs in violation of subsection (e) of Section 56 of this Act.

(6) Failure to maintain or provide pedigrees as required by this Act.

(7) Failure to obtain, pass, or authenticate a pedigree as required by this Act.

(8) Providing the Department or any federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the provisions of this Act.

(9) Obtaining or attempting to obtain a prescription drug by fraud, deceit, or misrepresentation or engaging in misrepresentation or fraud in the distribution of a prescription drug.

(10) The manufacture, repacking, sale, transfer, delivery, holding, or offering for sale of any prescription drug that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or that has otherwise been rendered unfit for distribution, except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application

approved under federal law by the FDA.

(11) The adulteration, misbranding, or counterfeiting of any prescription drug, except for the wholesale distribution by manufacturers of a prescription drug that has been delivered into commerce pursuant to an application approved under federal law by the FDA.

(12) The receipt of any prescription drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit and the delivery or proffered delivery of such drug for pay or otherwise.

(13) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a prescription drug or the commission of any other act with respect to a prescription drug that results in the prescription drug being misbranded. The acts prohibited in this Section do not include the obtaining or the attempt to obtain a prescription drug for the sole purpose of testing the prescription drug for authenticity performed by a prescription drug manufacturer or the agent of a prescription drug manufacturer.

(225 ILCS 120/59 new)

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

Sec. 59. Enforcement; order to cease distribution of a drug.

(a) The Department shall issue an order requiring the appropriate person, including the distributors or retailers of a drug, to immediately cease distribution of the drug within this State, if the Department finds that there is a reasonable probability that:

(1) a wholesale distributor has (i) violated a provision in this Act or (ii) falsified a pedigree or sold, distributed, transferred, manufactured, repackaged, handled, or held a counterfeit prescription drug intended for human use;

(2) the prescription drug at issue, as a result of a violation in paragraph (1) of this subsection (a), could cause serious, adverse health consequences or death; and

(3) other procedures would result in unreasonable delay.

(b) An order issued under this Section shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order. If, after providing an opportunity for a hearing, the Department determines that inadequate grounds exist to support the actions required by the order, the Department shall vacate the order.

Section 85. The Illinois Public Aid Code is amended by changing Section 8A-7.1 as follows:

(305 ILCS 5/8A-7.1) (from Ch. 23, par. 8A-7.1)

Sec. 8A-7.1. The Director, upon making a determination based upon information in the possession of the Illinois Department, that continuation in practice of a licensed health care professional would constitute an immediate danger to the public, shall submit a written communication to the Director of Professional Regulation indicating such determination and additionally providing a complete summary of the information upon which such determination is based, and recommending that the Director of Professional Regulation immediately suspend such person's license. All relevant evidence, or copies thereof, in the Illinois Department's possession may also be submitted in conjunction with the written communication. A copy of such written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submittal to the Director of Professional Regulation be simultaneously mailed to the last known business address of such licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

The Director, upon making a determination based upon information in the possession of the Illinois Department, that

a licensed health care professional is willfully committing fraud upon the Illinois Department's medical assistance program, shall submit a written communication to the Director of Professional Regulation indicating such determination and additionally providing a complete summary of the information upon which such determination is based. All relevant evidence, or copies thereof, in the Illinois Department's possession may also be submitted in conjunction with the written communication.

Upon receipt of such written communication, the Director of Professional Regulation shall promptly investigate the allegations contained in such written communication. A copy of such written communication, which is exempt from the copying and inspection provisions of the Freedom of Information Act, shall at the time of submission to the Director of Professional Regulation, be simultaneously mailed to the last known address of such licensed health care professional by certified or registered postage, United States Mail, return receipt requested. Any evidence, or copies thereof, which is submitted in conjunction with the written communication is also exempt from the copying and inspection provisions of the Freedom of Information Act.

For the purposes of this Section, "licensed health care professional" means any person licensed under the Illinois Dental Practice Act, the Nursing and Advanced Practice Nursing Act, the Medical Practice Act of 1987, the Pharmacy Practice

Act ~~of 1987~~, the Podiatric Medical Practice Act of 1987, or the Illinois Optometric Practice Act of 1987.

(Source: P.A. 92-651, eff. 7-11-02.)

Section 90. The Elder Abuse and Neglect Act is amended by changing Section 2 as follows:

(320 ILCS 20/2) (from Ch. 23, par. 6602)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Abuse" means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, neglect, or self-neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

(a-5) "Abuser" means a person who abuses, neglects, or financially exploits an eligible adult.

(a-7) "Caregiver" means a person who either as a result of

a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living.

(b) "Department" means the Department on Aging of the State of Illinois.

(c) "Director" means the Director of the Department.

(d) "Domestic living situation" means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or a board and care home or other community-based unlicensed facility, but is not:

(1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;

(2) A "life care facility" as defined in the Life Care Facilities Act;

(3) A home, institution, or other place operated by the federal government or agency thereof or by the State of Illinois;

(4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;

(5) A "community living facility" as defined in the Community Living Facilities Licensing Act;

(6) A "community residential alternative" as defined in the Community Residential Alternatives Licensing Act;

(7) A "community-integrated living arrangement" as defined in the Community-Integrated Living Arrangements Licensure and Certification Act;

(8) An assisted living or shared housing establishment as defined in the Assisted Living and Shared Housing Act; or

(9) A supportive living facility as described in Section 5-5.01a of the Illinois Public Aid Code.

(e) "Eligible adult" means a person 60 years of age or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.

(f) "Emergency" means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.

(f-5) "Mandated reporter" means any of the following persons while engaged in carrying out their professional duties:

(1) a professional or professional's delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to

be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietetic and Nutrition Services Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nursing and Advanced Practice Nursing Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act ~~of 1987~~, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

(2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;

(3) an administrator, employee, or person providing services in or through an unlicensed community based facility;

(4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious

denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

(5) field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;

(6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long Term Care Ombudsman;

(7) any employee of the State of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;

(8) a person who performs the duties of a coroner or medical examiner; or

(9) a person who performs the duties of a paramedic or an emergency medical technician.

(g) "Neglect" means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This

subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

(h) "Provider agency" means any public or nonprofit agency in a planning and service area appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation.

(i) "Regional administrative agency" means any public or nonprofit agency in a planning and service area so designated by the Department, provided that the designated Area Agency on Aging shall be designated the regional administrative agency if it so requests. The Department shall assume the functions of the regional administrative agency for any planning and service area where another agency is not so designated.

(i-5) "Self-neglect" means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety.

(j) "Substantiated case" means a reported case of alleged

or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred.

(Source: P.A. 93-281 eff. 12-31-03; 93-300, eff. 1-1-04; 94-1064, eff. 1-1-07.)

Section 95. The Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act is amended by changing Section 3.17 as follows:

(320 ILCS 25/3.17) (from Ch. 67 1/2, par. 403.17)

Sec. 3.17. "Authorized pharmacy" means any pharmacy registered in this State under the Pharmacy Practice Act ~~of 1987~~.

(Source: P.A. 85-1209.)

Section 100. The Illinois Prescription Drug Discount Program Act is amended by changing Section 15 as follows:

(320 ILCS 55/15)

Sec. 15. Definitions. As used in this Act:

"Authorized pharmacy" means any pharmacy registered in this State under the Pharmacy Practice Act ~~of 1987~~ or approved by the Department of Financial and Professional Regulation and approved by the Department or its program administrator.

"AWP" or "average wholesale price" means the amount determined from the latest publication of the Red Book, a universally subscribed pharmacist reference guide annually published by the Hearst Corporation. "AWP" or "average wholesale price" may also be derived electronically from the drug pricing database synonymous with the latest publication of the Red Book and furnished in the National Drug Data File (NDDF) by First Data Bank (FDB), a service of the Hearst Corporation.

"Covered medication" means any medication included in the Illinois Prescription Drug Discount Program.

"Department" means the Department of Healthcare and Family Services.

"Director" means the Director of Healthcare and Family Services.

"Drug manufacturer" means any entity (1) that is located within or outside Illinois that is engaged in (i) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products covered under the program, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis or (ii) the packaging, repackaging, leveling, labeling, or distribution of prescription drug products covered under the program and (2) that elects to provide prescription drugs either directly or under contract

with any entity providing prescription drug services on behalf of the State of Illinois. "Drug manufacturer", however, does not include a wholesale distributor of drugs or a retail pharmacy licensed under Illinois law.

"Federal Poverty Limit" or "FPL" means the Federal Poverty Income Guidelines published annually in the Federal Register.

"Prescription drug" means any prescribed drug that may be legally dispensed by an authorized pharmacy.

"Program" means the Illinois Prescription Drug Discount Program created under this Act.

"Program administrator" means the entity that is chosen by the Department to administer the program. The program administrator may, in this case, be the Director or a Pharmacy Benefits Manager (PBM) chosen to subcontract with the Director.

"Rules" includes rules adopted and forms prescribed by the Department.

(Source: P.A. 93-18, eff. 7-1-03; 94-86, eff. 1-1-06.)

Section 105. The Illinois Food, Drug and Cosmetic Act is amended by changing Sections 2.22, 3.14 and 3.21 as follows:

(410 ILCS 620/2.22) (from Ch. 56 1/2, par. 502.22)

Sec. 2.22. "Drug product selection", as used in Section 3.14 of this Act, means the act of selecting the source of supply of a drug product in a specified dosage form in accordance with Section 3.14 of this Act and Section 25 of the

Pharmacy Practice Act ~~of 1987~~.

(Source: P.A. 85-1209.)

(410 ILCS 620/3.14) (from Ch. 56 1/2, par. 503.14)

Sec. 3.14. Dispensing or causing to be dispensed a different drug in place of the drug or brand of drug ordered or prescribed without the express permission of the person ordering or prescribing. Except as set forth in Section 26 of the Pharmacy Practice Act, this Section does not prohibit the interchange of different brands of the same generically equivalent drug product, when the drug products are not required to bear the legend "Caution: Federal law prohibits dispensing without prescription", provided that the same dosage form is dispensed and there is no greater than 1% variance in the stated amount of each active ingredient of the drug products. A generic drug determined to be therapeutically equivalent by the United States Food and Drug Administration (FDA) shall be available for substitution in Illinois in accordance with this Act and the Pharmacy Practice Act ~~of 1987~~, provided that each manufacturer submits to the Director of the Department of Public Health a notification containing product technical bioequivalence information as a prerequisite to product substitution when they have completed all required testing to support FDA product approval and, in any event, the information shall be submitted no later than 60 days prior to product substitution in the State.

(Source: P.A. 93-841, eff. 7-30-04; 94-936, eff. 6-26-06.)

(410 ILCS 620/3.21) (from Ch. 56 1/2, par. 503.21)

Sec. 3.21. Except as authorized by this Act, the Controlled Substances Act, the Pharmacy Practice Act ~~of 1987~~, the Dental Practice Act, the Medical Practice Act of 1987, the Veterinary Medicine and Surgery Practice Act of 2004, or the Podiatric Medical Practice Act of 1987, to sell or dispense a prescription drug without a prescription.

(Source: P.A. 93-281, eff. 12-31-03.)

Section 110. The Uniform Hazardous Substances Act of Illinois is amended by changing Section 13 as follows:

(430 ILCS 35/13) (from Ch. 111 1/2, par. 263)

Sec. 13. This Act shall not apply to:

(1) Any carrier, while lawfully engaged in transporting a hazardous substance within this State, if such carrier shall, upon request, permit the Director or his designated agent to copy all records showing the transactions in and movements of the articles;

(2) Public Officials of this State and of the federal government engaged in the performance of their official duties;

(3) The manufacturer or shipper of a hazardous substance for experimental use only:

(a) By or under the supervision of an agency of this State

or of the federal government authorized by law to conduct research in the field of hazardous substances; or

(b) By others if the hazardous substance is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only -- Not to be sold", together with the manufacturer's name and address; provided, however, that if a written permit has been obtained from the Director, hazardous substances may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit;

(4) Any food, drug or cosmetic subject to the Federal Food, Drug and Cosmetic Act or to the Illinois Food, Drug and Cosmetic Act, or to preparations, drugs and chemicals which are dispensed by pharmacists authorized by and pursuant to the Pharmacy Practice Act ~~of 1987~~; provided that this Act shall apply to any pressurized container containing a food, drug, cosmetic, chemical or other preparation.

(5) Any economic poison subject to the Federal Insecticide, Fungicide and Rodenticide Act, or to the "Illinois Pesticide Act", approved August 14, 1979, as amended, but shall apply to any article which is not itself an economic poison within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act or the Illinois Pesticide Act, approved August 14, 1979, as amended, but which is a hazardous substance within the meaning of Section 2-4 of this Act, by reason of bearing or containing such an economic poison.

(6) Fuel used primarily for cooking, heating or refrigeration when stored in containers and used in the heating, cooking or refrigeration system of a household.

(7) Any article of wearing apparel, bedding, fabric, doll or toy which is subject to the provisions of the Illinois Flammable Fabrics and Toys Act, by reason of its flammable nature, but this Act shall apply to such article if it bears or contains a substance or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, or which generates pressure through decomposition, heat or other means and which may cause substantial personal injury or illness during or as a proximate result of any customary or reasonably anticipated handling or use including reasonably foreseeable ingestion by children.

(8) Any source material, special nuclear material, or by-product material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(9) The labeling of any equipment or facilities for the use, storage, transportation, or manufacture of any hazardous material which is required to be placarded by "An Act to require labeling of equipment and facilities for the use, transportation, storage and manufacture of hazardous materials and to provide for a uniform response system to hazardous materials emergencies", approved August 26, 1976, as amended.

The Director may exempt from the requirements established

by or pursuant to this Act any hazardous substance or container of a hazardous substance with respect to which he finds adequate requirements satisfying the purposes of this Act have been established by or pursuant to and in compliance with any other federal or state law.

(Source: P.A. 85-1209.)

Section 115. The Illinois Abortion Law of 1975 is amended by changing Section 11 as follows:

(720 ILCS 510/11) (from Ch. 38, par. 81-31)

Sec. 11. (1) Any person who intentionally violates any provision of this Law commits a Class A misdemeanor unless a specific penalty is otherwise provided. Any person who intentionally falsifies any writing required by this Law commits a Class A misdemeanor.

Intentional, knowing, reckless, or negligent violations of this Law shall constitute unprofessional conduct which causes public harm under Section 22 of the Medical Practice Act of 1987, as amended; Sections 10-45 and 15-50 of the Nursing and Advanced Practice Nursing Act, and Section 21 of the Physician Assistant Practice Act of 1987, as amended.

Intentional, knowing, reckless or negligent violations of this Law will constitute grounds for refusal, denial, revocation, suspension, or withdrawal of license, certificate, or permit under Section 30 of the Pharmacy Practice Act ~~of~~

~~1987~~, as amended; Section 7 of the Ambulatory Surgical Treatment Center Act, effective July 19, 1973, as amended; and Section 7 of the Hospital Licensing Act.

(2) Any hospital or licensed facility which, or any physician who intentionally, knowingly, or recklessly fails to submit a complete report to the Department in accordance with the provisions of Section 10 of this Law and any person who intentionally, knowingly, recklessly or negligently fails to maintain the confidentiality of any reports required under this Law or reports required by Sections 10.1 or 12 of this Law commits a Class B misdemeanor.

(3) Any person who sells any drug, medicine, instrument or other substance which he knows to be an abortifacient and which is in fact an abortifacient, unless upon prescription of a physician, is guilty of a Class B misdemeanor. Any person who prescribes or administers any instrument, medicine, drug or other substance or device, which he knows to be an abortifacient, and which is in fact an abortifacient, and intentionally, knowingly or recklessly fails to inform the person for whom it is prescribed or upon whom it is administered that it is an abortifacient commits a Class C misdemeanor.

(4) Any person who intentionally, knowingly or recklessly performs upon a woman what he represents to that woman to be an abortion when he knows or should know that she is not pregnant commits a Class 2 felony and shall be answerable in civil

damages equal to 3 times the amount of proved damages.
(Source: P.A. 90-742, eff. 8-13-98.)

Section 120. 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 other than methamphetamine, 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) (Blank).

(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 <u>license or</u> 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, 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 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 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 other than methamphetamine.

(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. 93-596, eff. 8-26-03; 93-626, eff. 12-23-03; 94-556, eff. 9-11-05.)

Section 125. The Illinois Controlled Substances Act is amended by changing Section 103 as follows:

(720 ILCS 570/103) (from Ch. 56 1/2, par. 1103)

Sec. 103. Scope of Act. Nothing in this Act limits the lawful authority granted by the Medical Practice Act of 1987, the Nursing and Advanced Practice Nursing Act, or the Pharmacy Practice Act ~~of 1987~~.

(Source: P.A. 90-742, eff. 8-13-98.)

Section 130. The Methamphetamine Control and Community Protection Act is amended by changing Section 110 as follows:

(720 ILCS 646/110)

Sec. 110. Scope of Act. Nothing in this Act limits any authority or activity authorized by the Illinois Controlled Substances Act, the Medical Practice Act of 1987, the Nursing and Advanced Practice Nursing Act, the Pharmacy Practice Act ~~of 1987~~, the Illinois Dental Practice Act, the Podiatric Medical

Practice Act of 1987, or the Veterinary Medicine and Surgery Practice Act of 2004. Nothing in this Act limits the authority or activity of any law enforcement officer acting within the scope of his or her employment.

(Source: P.A. 94-556, eff. 9-11-05.)

Section 135. The Methamphetamine Precursor Control Act is amended by changing Sections 25 and 50 as follows:

(720 ILCS 648/25)

Sec. 25. Pharmacies.

(a) No targeted methamphetamine precursor may be knowingly distributed through a pharmacy, including a pharmacy located within, owned by, operated by, or associated with a retail distributor unless all terms of this Section are satisfied.

(b) Any targeted methamphetamine precursor other than a convenience package or a liquid, including but not limited to any targeted methamphetamine precursor in liquid-filled capsules, shall: be packaged in blister packs, with each blister containing not more than 2 dosage units, or when the use of blister packs is technically infeasible, in unit dose packets. Each targeted package shall contain no more than 3,000 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(c) The targeted methamphetamine precursor shall be stored behind the pharmacy counter and distributed by a pharmacist or

pharmacy technician licensed under the Pharmacy Practice Act ~~of 1987~~.

(d) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall ensure that any person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor complies with subsection (a) of Section 20 of this Act.

(e) Any retail distributor operating a pharmacy, and any pharmacist or pharmacy technician involved in the transaction or transactions, shall verify that:

(1) The person purchasing, receiving, or otherwise acquiring the targeted methamphetamine precursor is 18 years of age or older and resembles the photograph of the person on the government-issued identification presented by the person; and

(2) The name entered into the log referred to in subsection (a) of Section 20 of this Act corresponds to the name on the government-issued identification presented by the person.

(f) The logs referred to in subsection (a) of Section 20 of this Act shall be kept confidential, maintained for not less than 2 years, and made available for inspection and copying by any law enforcement officer upon request of that officer. These logs may be kept in an electronic format if they include all the information specified in subsection (a) of Section 20 of

this Act in a manner that is readily retrievable and reproducible in hard-copy format.

(g) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute any targeted methamphetamine precursor to any person under 18 years of age.

(h) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person more than 2 targeted packages in a single retail transaction.

(i) No retail distributor operating a pharmacy, and no pharmacist or pharmacy technician, shall knowingly distribute to a single person in any 30-day period products containing more than a total of 7,500 milligrams of ephedrine or pseudoephedrine, their salts or optical isomers, or salts of optical isomers.

(j) A pharmacist or pharmacy technician may distribute a targeted methamphetamine precursor to a person who is without a form of identification specified in paragraph (1) of subsection (a) of Section 20 of this Act only if all other provisions of this Act are followed and either:

(1) the person presents a driver's license issued without a photograph by the State of Illinois pursuant to the Illinois Administrative Code, Title 92, Section 1030.90(b)(1) or 1030.90(b)(2); or

(2) the person is known to the pharmacist or pharmacy

technician, the person presents some form of identification, and the pharmacist or pharmacy technician reasonably believes that the targeted methamphetamine precursor will be used for a legitimate medical purpose and not to manufacture methamphetamine.

(k) When a pharmacist or pharmacy technician distributes a targeted methamphetamine precursor to a person according to the procedures set forth in this Act, and the pharmacist or pharmacy technician does not have access to a working cash register at the pharmacy counter, the pharmacist or pharmacy technician may instruct the person to pay for the targeted methamphetamine precursor at a cash register located elsewhere in the retail establishment, whether that register is operated by a pharmacist, pharmacy technician, or other employee or agent of the retail establishment.

(Source: P.A. 94-694, eff. 1-15-06; 94-830, eff. 6-5-06.)

(720 ILCS 648/50)

Sec. 50. Scope of Act.

(a) Nothing in this Act limits the scope, terms, or effect of the Methamphetamine Control and Community Protection Act.

(b) Nothing in this Act limits the lawful authority granted by the Medical Practice Act of 1987, the Nursing and Advanced Practice Nursing Act, or the Pharmacy Practice Act ~~of 1987~~.

(c) Nothing in this Act limits the authority or activity of any law enforcement officer acting within the scope of his or

her employment.

(Source: P.A. 94-694, eff. 1-15-06.)

Section 140. The Parental Right of Recovery Act is amended by changing Section 2 as follows:

(740 ILCS 120/2) (from Ch. 70, par. 602)

Sec. 2. For the purpose of this Act, unless the context clearly requires otherwise:

(1) "Illegal drug" means (i) any substance as defined and included in the Schedules of Article II of the Illinois Controlled Substances Act, (ii) any cannabis as defined in Section 3 of the Cannabis Control Act, or (iii) any drug as defined in paragraph (b) of Section 3 of the Pharmacy Practice Act ~~of 1987~~ which is obtained without a prescription or otherwise in violation of the law.

(2) "Minor" means a person who has not attained age 18.

(3) "Legal guardian" means a person appointed guardian, or given custody, of a minor by a circuit court of this State, but does not include a person appointed guardian, or given custody, of a minor under the Juvenile Court Act or the Juvenile Court Act of 1987.

(4) "Parent" means any natural or adoptive parent of a minor.

(5) "Person" means any natural person, corporation, association, partnership or other organization.

(6) "Prescription" means any order for drugs, written or verbal, by a physician, dentist, veterinarian or other person authorized to prescribe drugs within the limits of his license, containing the following: (1) Name of the patient; (2) date when prescription was given; (3) name and strength of drug prescribed; (4) quantity, directions for use, prescriber's name, address and signature, and the United States Drug Enforcement Agency number where required, for controlled substances.

(7) "Sale or transfer" means the actual or constructive transfer of possession of an illegal drug, with or without consideration, whether directly or through an agent.

(Source: P.A. 85-1209.)

(225 ILCS 85/14 rep.)

(225 ILCS 85/35.11 rep.)

Section 145. The Pharmacy Practice Act of 1987 is amended by repealing Sections 14 and 35.11.

(225 ILCS 120/45 rep.)

Section 150. The Wholesale Drug Distribution Licensing Act is amended by repealing Section 45.

Section 999. Effective date. This Act takes effect upon becoming law.".