Sen. William R. Haine

Filed: 4/30/2009

AMENDMENT TO HOUSE BILL 1293

AMENDMENT NO. _____. Amend House Bill 1293 by replacing everything after the enacting clause with the following:

"Section 5. The Pharmacy Practice Act is amended by changing Sections 3, 9, 9.5, 16a, 25.15, 30, and 35.16 as follows:

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

(Section scheduled to be repealed on January 1, 2018)

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 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 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 (1), (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.

(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 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" means the Secretary 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. "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" 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.

(p) (Blank).

(q) (Blank).

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist ~~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 student pharmacist ~~intern~~; and (3) acquiring a patient's allergies and health conditions.

(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).

(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 biometric or electronic identification process as approved by the Department.

(w) "Current usual and customary retail price" means the

price that a pharmacy charges to a non-third-party payor .

(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. 94-459, eff. 1-1-06; 95-689, eff. 10-29-07.)

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

(Section scheduled to be repealed on January 1, 2018)

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 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 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 initial registration ~~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 and register as a certified pharmacy technician with the Department in order to continue to perform pharmacy technician's duties. This requirement does not apply to pharmacy technicians registered ~~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 or has graduated from such a program within the last 18 months, shall be considered a "student pharmacist ~~pharmacy intern~~" and entitled to use the title "student pharmacist" ~~pharmacy intern~~". A student pharmacist ~~pharmacy intern~~ must meet all of the requirements for registration as a pharmacy technician set forth in this Section excluding the requirement of certification prior to the second registration renewal and pay the required pharmacy technician registration fees. A student pharmacist may, under the supervision of a pharmacist, assist in the practice of pharmacy and perform any and all functions delegated to him or her by the pharmacist.

Any person seeking licensure as a pharmacist who has

graduated from a pharmacy program outside the United States must register as a pharmacy technician and shall be considered a "student pharmacist" and be entitled to use the title "student pharmacist" while completing the 1,200 clinical hours of training approved by the Board of Pharmacy described and for no more than 18 months after completion of these hours. These individuals are not required to become certified pharmacy technicians while completing their Board approved clinical training, but must become licensed as a pharmacist or become a certified pharmacy technician before the second pharmacy technician registration renewal following completion of the Board approved clinical training.

The Department shall not renew the pharmacy technician license of any person who has been registered as a "student pharmacist" and has dropped out of or been expelled from an ACPE accredited college of pharmacy, who has failed to complete his or her 1,200 hours of Board approved clinical training within 24 months or who has failed the pharmacist licensure examination 3 times and shall require these individuals to meet the requirements of and become registered a certified pharmacy technician.

The Department~~, upon the recommendation of the Board,~~ may take any action set forth in Section 30 of this Act with regard to registrations ~~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 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. 95-689, eff. 10-29-07.)

(225 ILCS 85/9.5)

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

Sec. 9.5. Certified pharmacy technician.

(a) An individual registered as a pharmacy technician under this Act may be registered ~~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 Department ~~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 Department ~~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 Department ~~Board~~ may, by rule, establish any additional requirements for certification under this Section.

(d) A person who is not a registered pharmacy technician and meets the requirements of this Section may register as a certified pharmacy technician without first registering as a

pharmacy technician.

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

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

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

Sec. 16a.

(a) The Department shall establish rules and regulations, consistent with the provisions of this Act, governing nonresident 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 Department ~~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 Department ~~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 or Department concerning any ~~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 or Department 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. 95-689, eff. 10-29-07.)

(225 ILCS 85/25.15)

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

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 student pharmacist ~~pharmacist intern~~.

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

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

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

Sec. 30. Refusal, revocation, or suspension.

(a) The Department may refuse to issue or renew, or may revoke a license or registration, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed $10,000 for each violation, with regard to any licensee or registrant ~~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 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 unprofessional, dishonorable, or unethical 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 or~~, 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. Dispensing ~~Repetitiously dispensing~~ prescription drugs without receiving a written or oral prescription in violation of law.

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 results in the inability to practice with reasonable judgment, skill or safety, or mental incompetence, 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. "Good faith", as used in this item (22), shall not be limited to the sale or dispensing of controlled substances, but shall apply to all prescription drugs.

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.

26. Disclosing protected health information in violation of any State or federal law.

(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. Fines shall be paid within 60 days or as otherwise agreed to by the Department. Any funds collected from such fines shall be deposited in the Illinois State Pharmacy Disciplinary Fund.

(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.

(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, or multidisciplinary team involved in providing physical and mental examinations led by a physician consisting of one or a combination of licensed physicians, licensed clinical psychologists, licensed clinical social workers, licensed clinical professional counselors, and other professional and administrative staff, shall be those specifically designated by the Department. The Board or the Department may order the examining physician or any member of the multidisciplinary team to present testimony concerning this mental or physical examination of the licensee or applicant. No information, report, or other documents in any way related to the examination shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee or applicant and the examining physician or any member

of the multidisciplinary team. 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, certified pharmacy technician, or pharmacy technician unable to practice because of the reasons set forth in this Section, the Board shall require such pharmacist, certified pharmacy technician, or pharmacy technician to submit to care, counseling, or treatment by physicians or other appropriate health care providers approved or designated by the Board as a condition for continued, reinstated, or renewed licensure to practice. Any pharmacist, certified pharmacy technician, 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, certified pharmacy technician's, or pharmacy technician's record of treatment and counseling regarding the impairment.

(Source: P.A. 95-331, eff. 8-21-07; 95-689, eff. 10-29-07.)

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

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

Sec. 35.16. The Secretary ~~Director~~ may temporarily suspend the license of a pharmacist or pharmacy, or the registration of a~~,~~ pharmacy technician or certified pharmacy technician ~~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 Secretary ~~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 Secretary ~~Director~~ suspends, temporarily, this license or registration ~~certificate~~ without a hearing, a hearing by the Department must be held within 15 days after such suspension has occurred, and be concluded without appreciable delay.

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