Rep. Angelo Saviano

Filed: 3/17/2009

AMENDMENT TO HOUSE BILL 2247

AMENDMENT NO. _____. Amend House Bill 2247 by replacing everything after the enacting clause with the following:

"Section 5. The Pharmacy Practice Act is amended by changing Section 4 as follows:

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

(Section scheduled to be repealed on January 1, 2018)

Sec. 4. Exemptions. Nothing contained in any Section of this Act shall apply to, or in any manner interfere with:

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

(b) the sale of compressed gases;

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

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

(e) the sale of poisonous substances or mixture of poisonous substances, in unbroken packages, for nonmedicinal use in the arts or industries or for insecticide purposes;

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

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

(g) The delegation of prescriptive authority by a physician licensed to practice medicine in all its branches or a licensed podiatrist to an advanced practice nurse in accordance with a written collaborative agreement under Sections ~~Section~~ 65-35 and 65-40 of the Nurse Practice Act. ~~This authority, which is delegated under Section 65-40 of the Nurse Practice Act, may but is not required to include the prescription of Schedule III, IV, or V controlled substances as defined in Article II of~~

~~the Illinois Controlled Substances Act.~~

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

Section 10. The Physician Assistant Practice Act is amended by changing Sections 4, 7.5, and 21 as follows:

(225 ILCS 95/4) (from Ch. 111, par. 4604)

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

Sec. 4. In this Act:

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

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

3. "Physician assistant" means any person not a physician who has been certified as a physician assistant by the National Commission on the Certification of Physician Assistants or equivalent successor agency and performs procedures under the supervision of a physician as defined in this Act. A physician assistant may perform such procedures within the specialty of the supervising physician, except that such physician shall exercise such direction, supervision and control over such physician assistants as will assure that patients shall receive quality medical care. Physician assistants shall be capable of performing a variety of tasks within the specialty of medical care under the supervision of a physician. Supervision of the physician assistant shall not be construed to necessarily

require the personal presence of the supervising physician at all times at the place where services are rendered, as long as there is communication available for consultation by radio, telephone or telecommunications within established guidelines as determined by the physician/physician assistant team. The supervising physician may delegate tasks and duties to the physician assistant. Delegated tasks or duties shall be consistent with physician assistant education, training, and experience. The delegated tasks or duties shall be specific to the practice setting and shall be implemented and reviewed under a written supervision agreement ~~guidelines~~ established by the physician or physician/physician assistant team. A physician assistant, acting as an agent of the physician, shall be permitted to transmit the supervising physician's orders as determined by the institution's by-laws, policies, procedures, or job description within which the physician/physician assistant team practices. Physician assistants shall practice only in accordance with a written supervision agreement ~~within the established guidelines~~.

4. "Board" means the Medical Licensing Board constituted under the Medical Practice Act of 1987.

5. "Disciplinary Board" means the Medical Disciplinary Board constituted under the Medical Practice Act of 1987.

6. "Physician" means, for purposes of this Act, a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987.

7. "Supervising Physician" means, for the purposes of this Act, the primary supervising physician of a physician assistant, who, within his specialty and expertise may delegate a variety of tasks and procedures to the physician assistant. Such tasks and procedures shall be delegated in accordance with a written supervision agreement ~~within established guidelines~~. The supervising physician maintains the final responsibility for the care of the patient and the performance of the physician assistant.

8. "Alternate supervising physician" means, for the purpose of this Act, any physician designated by the supervising physician to provide supervision in the event that he or she is unable to provide that supervision. The Department may further define "alternate supervising physician" by rule.

The alternate supervising physicians shall maintain all the same responsibilities as the supervising physician. Nothing in this Act shall be construed as relieving any physician of the professional or legal responsibility for the care and treatment of persons attended by him or by physician assistants under his supervision. Nothing in this Act shall be construed as to limit the reasonable number of alternate supervising physicians, provided they are designated by the supervising physician.

9. "Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's

licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

(Source: P.A. 95-703, eff. 12-31-07.)

(225 ILCS 95/7.5)

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

Sec. 7.5. Prescriptions; written supervision agreements; prescriptive authority.

(a) A written supervision agreement is required for all physician assistants to practice in the State.

(1) A written supervision agreement shall describe the working relationship of the physician assistant with the supervising physician and shall authorize the categories of care, treatment, or procedures to be performed by the physician assistant. The written supervision agreement shall be defined to promote the exercise of professional judgment by the physician assistant commensurate with his or her education and experience. The services to be provided by the physician assistant shall be services that the supervising physician is authorized to and generally provides to his or her patients in the normal course of his or her clinical medical practice. The written supervision agreement need not describe the exact steps that a

physician assistant must take with respect to each specific condition, disease, or symptom but must specify which authorized procedures require the presence of the supervising physician as the procedures are being performed. The supervision relationship under a written supervision agreement shall not be construed to require the personal presence of a physician at all times at the place where services are rendered. Methods of communication shall be available for consultation with the supervising physician in person or by telecommunications in accordance with established written guidelines as set forth in the written supervision agreement.

(2) The written supervision agreement shall be adequate if a physician does each of the following:

(A) Participates in the joint formulation and joint approval of orders or guidelines with the physician assistant and he or she periodically reviews such orders and the services provided patients under such orders in accordance with accepted standards of medical practice and physician assistant practice.

(B) Meets in person with the physician assistant at least once a month to provide supervision.

(3) A copy of the signed, written supervision agreement must be available to the Department upon request from both the physician assistant and the supervising physician.

(4) A physician assistant shall inform each

supervising physician of all written supervision agreements he or she has signed and provide a copy of these to any supervising physician upon request.

(b) A supervising physician may, but is not required to, delegate prescriptive authority to a physician assistant as part of a written supervision agreement. This authority may, but is not required to, include prescription of, selection of, orders for, administration of, storage of, acceptance of samples of, and dispensing over the counter medications, legend drugs, medical gases, and controlled substances categorized as Schedule III through V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, and other preparations, including, but not limited to, botanical and herbal remedies. The supervising physician must have a valid, current Illinois controlled substance license and federal registration with the Drug Enforcement Agency to delegate the authority to prescribe controlled substances. ~~A supervising physician may delegate limited prescriptive authority to a physician assistant. This authority may, but is not required to, include prescription and dispensing of legend drugs and legend controlled substances categorized as Schedule III, IV, or V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, as delegated in the written guidelines required by this Act.~~

(1) To prescribe Schedule III, IV, or V controlled substances under this Section, a physician assistant must

obtain a mid-level practitioner controlled substances license. Medication orders issued by a physician assistant shall be reviewed periodically by the supervising physician.

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

(3) In addition to the requirements of subsection (b) of this Section, a supervising physician may, but is not required to, delegate authority to a physician assistant to prescribe Schedule II controlled substances, if all of the following conditions apply:

(A) No more than 5 Schedule II controlled substances by oral dosage may be delegated.

(B) Any delegation must be controlled substances that the supervising physician prescribes.

(C) Any prescription must be limited to no more

than a 30-day oral dosage, with any continuation authorized only after prior approval of the supervising physician.

(c) Nothing in this Act shall be construed to limit the delegation of tasks or duties by a physician to a licensed practical nurse, a registered professional nurse, or other persons. ~~The Department shall establish by rule the minimum requirements for written guidelines to be followed under this Section.~~

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

(225 ILCS 95/21) (from Ch. 111, par. 4621)

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

Sec. 21. Grounds for disciplinary action.

(a) The Department may refuse to issue or to renew, or may revoke, suspend, place on probation, censure or reprimand, or take other disciplinary or non-disciplinary action with regard to any license issued under this Act as the Department may deem proper, including the issuance of fines not to exceed $10,000 for each 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 adopted under this Act.

(3) Conviction of or entry of a plea of guilty or nolo

contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licenses.

(5) Professional incompetence.

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

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

(8) Engaging in dishonorable, unethical, or unprofessional conduct, as defined by rule, of a character likely to deceive, defraud, or harm the public.

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

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

(11) 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.

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

(13) Abandonment of a patient.

(14) Willfully making or filing false records or reports in his or her practice, including but not limited to false records filed with state agencies or departments.

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

(16) Physical illness, or mental illness or impairment that results in the inability to practice the profession with reasonable judgment, skill, or safety, including, but not limited to, deterioration through the aging process or loss of motor skill.

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

(18) (Blank).

(19) Gross negligence resulting in permanent injury or

death of a patient.

(20) Employment of fraud, deception or any unlawful means in applying for or securing a license as a physician assistant.

(21) Exceeding the authority delegated to him or her by his or her supervising physician in a written supervision agreement ~~guidelines established by the physician/physician assistant team~~.

(22) Immoral conduct in the commission of any act, such as sexual abuse, sexual misconduct or sexual exploitation related to the licensee's practice.

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

(24) Practicing under a false or assumed name, except as provided by law.

(25) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

(26) Allowing another person to use his or her license to practice.

(27) Prescribing, selling, administering, distributing, giving, or self-administering a drug classified as a controlled substance (designated product) or narcotic for other than medically-accepted therapeutic purposes.

(28) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(29) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.

(30) Violating State or federal laws or regulations relating to controlled substances or other legend drugs.

(31) Exceeding the ~~limited~~ prescriptive authority delegated by the supervising physician or violating the written supervision agreement ~~guidelines~~ delegating that authority.

(32) Practicing without providing to the Department a notice of supervision or delegation of prescriptive authority.

(b) The Department may, without a hearing, refuse to issue or renew or may suspend the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. The suspension will

end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and issues an order so finding and discharging the patient, and upon the recommendation of the Disciplinary Board to the Secretary that the licensee be allowed to resume his or her practice.

(d) In enforcing this Section, the Department upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied 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 Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Department. 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 this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department finds an individual unable to practice because of the reasons set forth in this Section, the Department may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined, or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under

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

(Source: P.A. 95-703, eff. 12-31-07.)

Section 15. The Illinois Controlled Substances Act is amended by changing Sections 102 and 303.05 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 Nurse Practice 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 license or certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act.

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

(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, optometrist, 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, optometrist, 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, a written delegation, and a ~~the~~ written supervision agreement ~~guidelines~~ required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act and in accordance with Section 303.05, a written delegation, and a written collaborative agreement under Section 65-35 of the Nurse Practice 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 an optometrist for a Schedule III, IV, or V controlled substance in accordance with Section 15.1 of the Illinois Optometric Practice Act of 1987, of a physician assistant for a ~~Schedule III, IV, or V~~ controlled substance in accordance with Section 303.05, a written delegation, and a ~~the~~ written supervision agreement ~~guidelines~~ required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse with prescriptive authority delegated under Section 65-40 of the Nurse Practice Act who issues a prescription for a ~~Schedule III, IV, or V~~ controlled substance in accordance with Section 303.05, a written delegation, and a written collaborative agreement under Section 65-35 of the Nurse Practice 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. 94-556, eff. 9-11-05; 95-242, eff. 1-1-08; 95-639, eff. 10-5-07; 95-689, eff. 10-29-07; 95-876, eff. 8-21-08.)

(720 ILCS 570/303.05)

Sec. 303.05. Mid-level practitioner registration.

(a) The Department of Financial and Professional Regulation shall register licensed physician assistants and licensed advanced practice nurses to prescribe and dispense ~~Schedule III, IV, or V~~ controlled substances under Section 303 and euthanasia agencies to purchase, store, or administer

animal euthanasia drugs under the following circumstances:

(1) with respect to physician assistants ~~or advanced practice nurses~~,

(A) the physician assistant ~~or advanced practice nurse~~ has been delegated ~~prescriptive~~ authority to prescribe any Schedule III through V controlled substances by a physician licensed to practice medicine in all its branches in accordance with Section 7.5 of the Physician Assistant Practice Act of 1987 or Section 65-40 of the Nurse Practice Act; and the ~~(B) the~~ physician assistant ~~or advanced practice nurse~~ has completed the appropriate application forms and has paid the required fees as set by rule; or

(B) the physician assistant has been delegated authority by a supervising physician licensed to practice medicine in all its branches to prescribe or dispense Schedule II controlled substances through a written delegation of authority and under the following conditions:

(i) no more than 5 Schedule II controlled substances by oral dosage may be delegated;

(ii) any delegation must be of controlled substances prescribed by the supervising physician;

(iii) all prescriptions must be limited to no more than a 30-day oral dosage, with any

continuation authorized only after prior approval of the supervising physician;

(iv) the physician assistant must discuss the condition of any patients for whom a controlled substance is prescribed monthly with the delegating physician; and

(v) the physician assistant must have completed the appropriate application forms and paid the required fees as set by rule; and

(2) with respect to advanced practice nurses,

(A) the advanced practice nurse has been delegated authority to prescribe any Schedule III through V controlled substances by a physician licensed to practice medicine in all its branches or a podiatrist in accordance with Section 65-40 of the Nurse Practice Act. The advanced practice nurse has completed the appropriate application forms and has paid the required fees as set by rule; or

(B) the advanced practice nurse has been delegated authority by a collaborating physician licensed to practice medicine in all its branches to prescribe or dispense Schedule II controlled substances through a written delegation of authority and under the following conditions:

(i) no more than 5 Schedule II controlled substances by oral dosage may be delegated;

(ii) any delegation must be of controlled substances prescribed by the collaborating physician;

(iii) all prescriptions must be limited to no more than a 30-day oral dosage, with any continuation authorized only after prior approval of the collaborating physician;

(iv) the advanced practice nurse must discuss the condition of any patients for whom a controlled substance is prescribed monthly with the delegating physician; and

(v) the advanced practice nurse must have completed the appropriate application forms and paid the required fees as set by rule; or

(3) ~~(2)~~ with respect to animal euthanasia agencies, the euthanasia agency has obtained a license from the Department of Professional Regulation and obtained a registration number from the Department.

(b) The mid-level practitioner shall only be licensed to prescribe those schedules of controlled substances for which a licensed physician or licensed podiatrist has delegated prescriptive authority, except that an animal ~~a~~ euthanasia agency does not have any prescriptive authority. A physician assistant and an advanced practice nurse are prohibited from prescribing medications and controlled substances not set forth in the required written delegation of authority.

(c) Upon completion of all registration requirements, physician assistants, advanced practice nurses, and animal euthanasia agencies shall be issued a mid-level practitioner controlled substances license for Illinois.

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

Section 99. Effective date. This Act takes effect upon becoming law.".