SB2552

LRB09617659ASK33017b

96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2552

Introduced 1/13/2010, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

225 ILCS 85/14.3 new
225 ILCS 85/14.5 new

Amends the Pharmacy Practice Act. Provides that all pharmacies that dispense drugs must maintain at all times a representative assortment of drugs in order to meet the pharmaceutical needs of their patients. Provides that pharmacies have a duty to deliver lawfully prescribed drugs or devices to patients and to distribute drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies, or provide a therapeutically equivalent drug or device in a timely manner. Provides that if after a good faith effort to comply with the Act the lawfully prescribed drug or device is not in stock or the prescription cannot be filled, then the pharmacy shall provide the patient or agent a timely alternative for appropriate therapy which, consistent with customary pharmacy practice, may include obtaining the drug or device. Provides for discipline or other enforcement actions if the pharmacist engages in, or permits, certain acts. Effective immediately.

LRB096 17659 ASK 33017 b

A BILL FOR

AN ACT concerning regulation.

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

Section 5. The Pharmacy Practice Act is amended by adding Sections 14.3 and 14.5 and as follows:

(225 ILCS 85/14.3 new)

Sec. 14.3. Drug availability requirements. All pharmacies that dispense drugs must maintain at all times a representative assortment of drugs in order to meet the pharmaceutical needs of their patients.

(225 ILCS 85/14.5 new)

Sec. 14.5. Duty to deliver prescribed drugs.

(a) Pharmacies have a duty to deliver lawfully prescribed drugs or devices to patients and to distribute drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies, or provide a therapeutically equivalent drug or device in a timely manner, except for the following or substantially similar circumstances:

(1) when in the pharmacist's professional judgment, after screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications,

drug-drug interactions (including serious interactions with non-prescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, or clinical abuse or misuse, pursuant to subsection (q) of Section 3 of this Act, he or she determines that the drug should not be dispensed due to one of the clinical reasons set forth in this item (1);

(2) national or state emergencies or guidelines affecting availability, usage, or supplies of drugs or devices;

(3) lack of specialized equipment or expertise needed to safely produce, store, or dispense drugs or devices, such as certain drug compounding or storage for nuclear medicine;

(4) potentially fraudulent prescriptions; or

(5) unavailability of drug or device despite good faith compliance with Section 14.3 of this Act.

(b) Nothing in this Section requires pharmacies to deliver a drug or device without payment of their usual and customary or contracted charge.

(c) If despite a good faith effort to comply with Section 14.3 of this Act, the lawfully prescribed drug or device is not in stock, or the prescription cannot be filled pursuant to item (1) of subsection (a) of this Section, then the pharmacy shall provide the patient or agent a timely alternative for

appropriate therapy which, consistent with customary pharmacy practice, may include obtaining the drug or device. These alternatives include, but are not limited to, any of the following:

(1) contacting the prescriber to address concerns such as those identified in item (1) of subsection (a) of this Section or to obtain authorization to provide a therapeutically equivalent product;

(2) if requested by the patient or his or her agent, then returning unfilled lawful prescriptions to the patient or agent; or

(3) if requested by the patient or his or her agent, then communicating or transmitting, as permitted by law, the original prescription information to a pharmacy of the patient's choice that will fill the prescription in a timely manner.

(d) Engaging in or permitting any of the following shall constitute grounds for discipline or other enforcement actions:

(1) The destruction of an unfilled lawful prescription.

(2) The refusal to return an unfilled lawful prescription.

(3) The violation of a patient's privacy.

(4) Discrimination against a patient or his or her agent in a manner prohibited by State or federal law.

(5) Intimidation or harassment of a patient.

(6) Failure to comply with the requirements of this Section.

(d) Any administrative rule adopted by the Department prior to the effective date of this amendatory Act of the 96th General Assembly regarding the dispensing of emergency contraception is preempted.

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