



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2461

Introduced 2/9/2016, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

225 ILCS 85/11	from Ch. 111, par. 4131
225 ILCS 85/30	from Ch. 111, par. 4150
225 ILCS 447/31-10	
225 ILCS 447/31-15	

Amends the Pharmacy Practice Act. Removes provisions concerning the position of deputy pharmacy coordinator. Removes limitations on the number of pharmacy investigators that must be employed by the Department of Financial and Professional Regulation (previously no less than 4 pharmacy investigators needed to be employed by the Department). Amends the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004. Provides that the requirement for licensure that an applicant must submit certification issued by the Department of State Police that the applicant's fingerprinting equipment and software meets all specifications required by the Department of State Police applies to fingerprint vendor agencies (rather than fingerprint vendors), and that the requirement is a continuing requirement for licensure. Effective immediately.

LRB099 16001 MLM 40318 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Pharmacy Practice Act is amended by changing
5 Sections 11 and 30 as follows:

6 (225 ILCS 85/11) (from Ch. 111, par. 4131)

7 (Section scheduled to be repealed on January 1, 2018)

8 Sec. 11. Duties of the Department. The Department shall
9 exercise the powers and duties prescribed by the Civil
10 Administrative Code of Illinois for the administration of
11 Licensing Acts and shall exercise such other powers and duties
12 necessary for effectuating the purpose of this Act. However,
13 the following powers and duties shall be exercised only upon
14 review of the Board of Pharmacy to take such action:

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

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

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

5 The granting of variances from rules promulgated pursuant
6 to this Section in individual cases where there is a finding
7 that:

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

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

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

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

18 (d) The Secretary shall appoint a chief pharmacy
19 coordinator who ~~and at least 2 deputy pharmacy coordinators,~~
20 ~~all of whom~~ shall be a registered pharmacist ~~pharmacists~~ in
21 good standing in this State, shall be a graduate ~~graduates~~ of
22 an accredited college of pharmacy or hold, at a minimum, a
23 bachelor of science degree in pharmacy, and shall have at least
24 5 years of experience in the practice of pharmacy immediately
25 prior to his or her appointment. The chief pharmacy coordinator
26 shall be the executive administrator and the chief enforcement

1 officer of this Act. ~~The deputy pharmacy coordinators shall~~
2 ~~report to the chief pharmacy coordinator. The Secretary shall~~
3 ~~assign at least one deputy pharmacy coordinator to a region~~
4 ~~composed of Cook County and such other counties as the~~
5 ~~Secretary may deem appropriate, and such deputy pharmacy~~
6 ~~coordinator shall have his or her primary office in Chicago.~~
7 ~~The Secretary shall assign at least one deputy pharmacy~~
8 ~~coordinator to a region composed of the balance of counties in~~
9 ~~the State, and such deputy pharmacy coordinator shall have his~~
10 ~~or her primary office in Springfield.~~

11 (e) The Secretary shall, in conformity with the Personnel
12 Code, employ ~~not less than 4~~ pharmacy investigators who shall
13 report to the pharmacy coordinator ~~or a deputy pharmacy~~
14 ~~coordinator~~. Each pharmacy investigator shall be a licensed
15 pharmacist unless employed as a pharmacy investigator on or
16 before the effective date of this amendatory Act of the 99th
17 General Assembly. The Department shall also employ at least one
18 attorney to prosecute violations of this Act and its rules. The
19 Department may, in conformity with the Personnel Code, employ
20 such clerical and other employees as are necessary to carry out
21 the duties of the Board and Department.

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

1 sale, exposed for sale, or kept for sale.

2 (Source: P.A. 99-473, eff. 8-27-15.)

3 (225 ILCS 85/30) (from Ch. 111, par. 4150)

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

5 Sec. 30. Refusal, revocation, or suspension.

6 (a) The Department may refuse to issue or renew, or may
7 revoke a license or registration, or may suspend, place on
8 probation, fine, or take any disciplinary or non-disciplinary
9 action as the Department may deem proper, including fines not
10 to exceed \$10,000 for each violation, with regard to any
11 licensee or registrant for any one or combination of the
12 following causes:

13 1. Material misstatement in furnishing information to
14 the Department.

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

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

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

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

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

25 7. Engaging in unprofessional, dishonorable, or

1 unethetical conduct of a character likely to deceive, defraud
2 or harm the public.

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

7 9. Directly or indirectly giving to or receiving from
8 any person, firm, corporation, partnership, or association
9 any fee, commission, rebate or other form of compensation
10 for any professional services not actually or personally
11 rendered. Nothing in this item 9 affects any bona fide
12 independent contractor or employment arrangements among
13 health care professionals, health facilities, health care
14 providers, or other entities, except as otherwise
15 prohibited by law. Any employment arrangements may include
16 provisions for compensation, health insurance, pension, or
17 other employment benefits for the provision of services
18 within the scope of the licensee's practice under this Act.
19 Nothing in this item 9 shall be construed to require an
20 employment arrangement to receive professional fees for
21 services rendered.

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

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

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

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

7 14. The applicant or licensee has been convicted in
8 state or federal court of or entered a plea of guilty, nolo
9 contendere, or the equivalent in a state or federal court
10 to any crime which is a felony or any misdemeanor related
11 to the practice of pharmacy or which an essential element
12 is dishonesty.

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

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

23 17. Gross and willful overcharging for professional
24 services including filing false statements for collection
25 of fees for which services are not rendered, including, but
26 not limited to, filing false statements for collection of

1 monies for services not rendered from the medical
2 assistance program of the Department of Healthcare and
3 Family Services (formerly Department of Public Aid) under
4 the Public Aid Code.

5 18. Dispensing prescription drugs without receiving a
6 written or oral prescription in violation of law.

7 19. Upon a finding of a substantial discrepancy in a
8 Department audit of a prescription drug, including
9 controlled substances, as that term is defined in this Act
10 or in the Illinois Controlled Substances Act.

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

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

19 22. Failing to sell or dispense any drug, medicine, or
20 poison in good faith. "Good faith", for the purposes of
21 this Section, has the meaning ascribed to it in subsection
22 (u) of Section 102 of the Illinois Controlled Substances
23 Act. "Good faith", as used in this item (22), shall not be
24 limited to the sale or dispensing of controlled substances,
25 but shall apply to all prescription drugs.

26 23. Interfering with the professional judgment of a

1 pharmacist by any registrant under this Act, or his or her
2 agents or employees.

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

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

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

16 (b) The Department may refuse to issue or may suspend the
17 license or registration of any person who fails to file a
18 return, or to pay the tax, penalty or interest shown in a filed
19 return, or to pay any final assessment of tax, penalty or
20 interest, as required by any tax Act administered by the
21 Illinois Department of Revenue, until such time as the
22 requirements of any such tax Act are satisfied.

23 (c) The Department shall revoke the license or certificate
24 of registration issued under the provisions of this Act or any
25 prior Act of this State of any person who has been convicted a
26 second time of committing any felony under the Illinois

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

8 (d) Fines may be imposed in conjunction with other forms of
9 disciplinary action, but shall not be the exclusive disposition
10 of any disciplinary action arising out of conduct resulting in
11 death or injury to a patient. Fines shall be paid within 60
12 days or as otherwise agreed to by the Department. Any funds
13 collected from such fines shall be deposited in the Illinois
14 State Pharmacy Disciplinary Fund.

15 (e) The entry of an order or judgment by any circuit court
16 establishing that any person holding a license or certificate
17 under this Act is a person in need of mental treatment operates
18 as a suspension of that license. A licensee may resume his or
19 her practice only upon the entry of an order of the Department
20 based upon a finding by the Board that he or she has been
21 determined to be recovered from mental illness by the court and
22 upon the Board's recommendation that the licensee be permitted
23 to resume his or her practice.

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

1 (g) In enforcing this Section, the Board or the Department,
2 upon a showing of a possible violation, may compel any licensee
3 or applicant for licensure under this Act to submit to a mental
4 or physical examination or both, as required by and at the
5 expense of the Department. The examining physician, or
6 multidisciplinary team involved in providing physical and
7 mental examinations led by a physician consisting of one or a
8 combination of licensed physicians, licensed clinical
9 psychologists, licensed clinical social workers, licensed
10 clinical professional counselors, and other professional and
11 administrative staff, shall be those specifically designated
12 by the Department. The Board or the Department may order the
13 examining physician or any member of the multidisciplinary team
14 to present testimony concerning this mental or physical
15 examination of the licensee or applicant. No information,
16 report, or other documents in any way related to the
17 examination shall be excluded by reason of any common law or
18 statutory privilege relating to communication between the
19 licensee or applicant and the examining physician or any member
20 of the multidisciplinary team. The individual to be examined
21 may have, at his or her own expense, another physician of his
22 or her choice present during all aspects of the examination.
23 Failure of any individual to submit to a mental or physical
24 examination when directed shall be grounds for suspension of
25 his or her license until such time as the individual submits to
26 the examination if the Board finds, after notice and hearing,

1 that the refusal to submit to the examination was without
2 reasonable cause. If the Board finds a pharmacist, certified
3 pharmacy technician, or pharmacy technician unable to practice
4 because of the reasons set forth in this Section, the Board
5 shall require such pharmacist, certified pharmacy technician,
6 or pharmacy technician to submit to care, counseling, or
7 treatment by physicians or other appropriate health care
8 providers approved or designated by the Board as a condition
9 for continued, reinstated, or renewed licensure to practice.
10 Any pharmacist, certified pharmacy technician, or pharmacy
11 technician whose license was granted, continued, reinstated,
12 renewed, disciplined, or supervised, subject to such terms,
13 conditions, or restrictions, and who fails to comply with such
14 terms, conditions, or restrictions or to complete a required
15 program of care, counseling, or treatment, as determined by the
16 chief pharmacy coordinator ~~or a deputy pharmacy coordinator,~~
17 shall be referred to the Secretary for a determination as to
18 whether the licensee shall have his or her license suspended
19 immediately, pending a hearing by the Board. In instances in
20 which the Secretary immediately suspends a license under this
21 subsection (g), a hearing upon such person's license must be
22 convened by the Board within 15 days after such suspension and
23 completed without appreciable delay. The Board shall have the
24 authority to review the subject pharmacist's, certified
25 pharmacy technician's, or pharmacy technician's record of
26 treatment and counseling regarding the impairment.

1 (Source: P.A. 95-331, eff. 8-21-07; 95-689, eff. 10-29-07;
2 96-673, eff. 1-1-10; 96-1482, eff. 11-29-10.)

3 Section 10. The Private Detective, Private Alarm, Private
4 Security, Fingerprint Vendor, and Locksmith Act of 2004 is
5 amended by changing Sections 31-10 and 31-15 as follows:

6 (225 ILCS 447/31-10)

7 (Section scheduled to be repealed on January 1, 2024)

8 Sec. 31-10. Qualifications for licensure as a fingerprint
9 vendor.

10 (a) A person is qualified for licensure as a fingerprint
11 vendor if he or she meets all of the following requirements:

12 (1) Is at least 18 years of age.

13 (2) Has not been convicted of any felony in any
14 jurisdiction or at least 10 years have elapsed since the
15 time of full discharge from a sentence imposed for a felony
16 conviction.

17 (3) Is of good moral character. Good moral character is
18 a continuing requirement of licensure. Conviction of
19 crimes other than felonies may be used in determining moral
20 character, but shall not constitute an absolute bar to
21 licensure, except where the applicant is a registered sex
22 offender.

23 (4) Has not been declared by any court of competent
24 jurisdiction to be incompetent by reason of mental or

1 physical defect or disease, unless a court has subsequently
2 declared him or her to be competent.

3 (5) Is not suffering from dependence on alcohol or from
4 narcotic addiction or dependence.

5 (6) Has not been dishonorably discharged from the armed
6 forces of the United States.

7 (7) Submits certification issued by the Department of
8 State Police that the applicant has successfully completed
9 a fingerprint vendor training course conducted or
10 authorized by the Department of State Police.

11 (8) Submits his or her fingerprints, in accordance with
12 subsection (b) of this Section.

13 (9) Has not violated any provision of this Act or any
14 rule adopted under this Act.

15 (10) Provides evidence satisfactory to the Department
16 that the applicant has obtained general liability
17 insurance in an amount and with coverage as determined by
18 rule. Failure to maintain general liability insurance and
19 failure to provide the Department with written proof of the
20 insurance, upon request, shall result in cancellation of
21 the license without hearing. A fingerprint vendor employed
22 by a licensed fingerprint vendor agency may provide proof
23 that his or her actions as a fingerprint vendor are covered
24 by the liability insurance of his or her employer.

25 (11) Pays the required licensure fee.

26 (12) (Blank). ~~Submits certification issued by the~~

1 ~~Department of State Police that the applicant's~~
2 ~~fingerprinting equipment and software meets all~~
3 ~~specifications required by the Department of State Police.~~
4 ~~Compliance with Department of State Police fingerprinting~~
5 ~~equipment and software specifications is a continuing~~
6 ~~requirement for licensure.~~

7 (13) Submits proof that the applicant maintains a
8 business office located in the State of Illinois.

9 (b) Each applicant for a fingerprint vendor license shall
10 have his or her fingerprints submitted to the Department of
11 State Police in an electronic format that complies with the
12 form and manner for requesting and furnishing criminal history
13 record information as prescribed by the Department of State
14 Police. These fingerprints shall be checked against the
15 Department of State Police and Federal Bureau of Investigation
16 criminal history record databases now and hereafter filed. The
17 Department of State Police shall charge applicants a fee for
18 conducting the criminal history records check, which shall be
19 deposited in the State Police Services Fund and shall not
20 exceed the actual cost of the records check. The Department of
21 State Police shall furnish, pursuant to positive
22 identification, records of Illinois convictions to the
23 Department. The Department may require applicants to pay a
24 separate fingerprinting fee, either to the Department or
25 directly to the vendor. The Department, in its discretion, may
26 allow an applicant who does not have reasonable access to a

1 designated vendor to provide his or her fingerprints in an
2 alternative manner. The Department, in its discretion, may also
3 use other procedures in performing or obtaining criminal
4 background checks of applicants. Instead of submitting his or
5 her fingerprints, an individual may submit proof that is
6 satisfactory to the Department that an equivalent security
7 clearance has been conducted. Also, an individual who has
8 retired as a peace officer within 12 months of application may
9 submit verification, on forms provided by the Department and
10 signed by his or her employer, of his or her previous full-time
11 employment as a peace officer.

12 (Source: P.A. 95-613, eff. 9-11-07.)

13 (225 ILCS 447/31-15)

14 (Section scheduled to be repealed on January 1, 2024)

15 Sec. 31-15. Qualifications for licensure as a fingerprint
16 vendor agency.

17 (a) Upon receipt of the required fee, compliance with
18 subsection (e) of this Section, and proof that the applicant
19 has a full-time Illinois licensed fingerprint vendor
20 licensee-in-charge, which is a continuing requirement for
21 agency licensure, the Department may issue a license as a
22 fingerprint vendor agency to any of the following:

23 (1) An individual who submits an application and is a
24 licensed fingerprint vendor under this Act.

25 (2) A firm that submits an application and all of the

1 members of the firm are licensed fingerprint vendors under
2 this Act.

3 (3) A corporation or limited liability company doing
4 business in Illinois that is authorized to engage in the
5 business of conducting a fingerprint vendor agency if at
6 least one officer or executive employee is a licensed
7 fingerprint vendor under this Act and all unlicensed
8 officers and directors of the corporation or limited
9 liability company are determined by the Department to be
10 persons of good moral character.

11 (b) An individual licensed as a fingerprint vendor
12 operating under a business name other than the licensed
13 fingerprint vendor's own name shall not be required to obtain a
14 fingerprint vendor agency license if that licensed fingerprint
15 vendor does not employ any persons to provide fingerprinting
16 services. However, in either circumstance, the individual
17 shall comply with the requirements of subsection (e) of this
18 Section as a requirement for licensure.

19 (c) No fingerprint vendor may be the licensee-in-charge for
20 more than one fingerprint vendor agency. Upon written request
21 by a representative of the agency, within 10 days after the
22 loss of a licensee-in-charge of an agency because of the death
23 of that individual or because of the termination of the
24 employment of that individual, the Department shall issue a
25 temporary certificate of authority allowing the continuing
26 operation of the licensed agency. No temporary certificate of

1 authority shall be valid for more than 90 days. An extension of
2 an additional 90 days may be granted upon written request by
3 the representative of the agency. Not more than 2 extensions
4 may be granted to any agency. No temporary permit shall be
5 issued for loss of the licensee-in-charge because of
6 disciplinary action by the Department related to his or her
7 conduct on behalf of the agency.

8 (d) Upon issuance of the temporary certificate of authority
9 as provided for in subsection (c) of this Section and at any
10 time thereafter while the temporary certificate of authority is
11 in effect, the Department may request in writing additional
12 information from the agency regarding the loss of its
13 licensee-in-charge, the selection of a new licensee-in-charge,
14 and the management of the agency. Failure of the agency to
15 respond or respond to the satisfaction of the Department shall
16 cause the Department to deny any extension of the temporary
17 certificate of authority. While the temporary certificate of
18 authority is in effect, the Department may disapprove the
19 selection of a new licensee-in-charge by the agency if the
20 person's license is not operative or the Department has good
21 cause to believe that the person selected will not fully
22 exercise the responsibilities of a licensee-in-charge. If the
23 Department has disapproved the selection of a new
24 licensee-in-charge and the temporary certificate of authority
25 expires or is about to expire without the agency selecting
26 another new licensee-in-charge, the Department shall grant an

1 extension of the temporary certificate of authority for an
2 additional 90 days, except as otherwise prohibited in
3 subsection (c) or this subsection (d).

4 (e) An applicant shall submit certification issued by the
5 Department of State Police that the applicant's fingerprinting
6 equipment and software meets all specifications required by the
7 Department of State Police. Compliance with Department of State
8 Police fingerprinting equipment and software specifications is
9 a continuing requirement for licensure.

10 (Source: P.A. 98-253, eff. 8-9-13.)

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