AMENDMENT TO HOUSE BILL 2463

AMENDMENT NO. _____. Amend House Bill 2463 by replacing everything after the enacting clause with the following:

"Section 5. The Pharmacy Practice Act of 1987 is amended by changing Sections 3, 10, 14, 15, 18, 19, 22, 27, and 30 and adding Section 17.1 as follows:

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

(Section scheduled to be repealed on January 1, 2008)

Sec. 3. Definitions. For the purpose of this Act, except where otherwise limited therein:

(a) "Pharmacy" or "drugstore" means and includes every store, shop, pharmacy department, or other place where pharmaceutical care is provided by a pharmacist (1) where drugs, medicines, or poisons are dispensed, sold or offered for sale at retail, or displayed for sale at retail; or (2) where prescriptions of physicians, dentists, veterinarians, podiatrists, or therapeutically certified optometrists, within the limits of their licenses, are compounded, filled, or dispensed; or (3) which has upon it or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "Pharmacist", "Druggist", "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",

"Medicine Store", "Prescriptions", "Drugs", "Medicines", or any word or words of similar or like import, either in the English language or any other language; or (4) where the characteristic prescription sign (Rx) or similar design is exhibited; or (5) any store, or shop, or other place with respect to which any of the above words, objects, signs or designs are used in any advertisement.

(b) "Drugs" means and includes (l) articles recognized in the official United States Pharmacopoeia/National Formulary (USP/NF), or any supplement thereto and being intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (2) all other articles intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals, as approved by the United States Food and Drug Administration, but does not include devices or their components, parts, or accessories; and (3) articles (other than food) having for their main use and intended to affect the structure or any function of the body of man or other animals; and (4) articles having for their main use and intended for use as a component or any articles specified in clause (l), (2) or (3); but does not include devices or their components, parts or accessories.

(c) "Medicines" means and includes all drugs intended for human or veterinary use approved by the United States Food and Drug Administration.

(d) "Practice of pharmacy" means the provision of pharmaceutical care to patients as determined by the pharmacist's professional judgment in the following areas, which may include but are not limited to (1) patient counseling, (2) interpretation and assisting in the

monitoring of appropriate drug use and prospective drug utilization review, (3) providing information on the therapeutic values, reactions, drug interactions, side effects, uses, selection of medications and medical devices, and outcome of drug therapy, (4) participation in drug selection, drug monitoring, drug utilization review, evaluation, administration, interpretation, application of pharmacokinetic and laboratory data to design safe and effective drug regimens, (5) drug research (clinical and scientific), and (6) compounding and dispensing of drugs and medical devices.

(e) "Prescription" means and includes any written, oral, facsimile, or electronically transmitted order for drugs or medical devices, issued by a physician licensed to practice medicine in all its branches, dentist, veterinarian, or podiatrist, or therapeutically certified optometrist, within the limits of their licenses, by a physician assistant in accordance with subsection (f) of Section 4, or by an advanced practice nurse in accordance with subsection (g) of Section 4, containing the following: (l) name of the patient; (2) date when prescription was issued; (3) name and strength of drug or description of the medical device prescribed; and (4) quantity, (5) directions for use, (6) prescriber's name, address and signature, and (7) DEA number where required, for controlled substances. DEA numbers shall not be required on inpatient drug orders.

(f) "Person" means and includes a natural person, copartnership, association, corporation, government entity, or any other legal entity.

(g) "Department" means the Department of Professional Regulation.

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

(i) "Director" means the Director of 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 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" means the delivery of drugs and medical devices, in accordance with applicable State and federal laws and regulations, to the patient or the patient's representative authorized to receive these products, including the compounding, packaging, and labeling necessary for delivery, and any recommending or advising concerning the contents and therapeutic values and uses thereof. "Dispense" 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" 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) "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.

(o) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a drug or medical device: (1) as the result of a practitioner's prescription drug order or initiative that is dispensed pursuant to a prescription in the course of professional practice; or (2) for the purpose of, or incident to, research, teaching, or chemical analysis; or (3) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(p) "Confidential information" means information, maintained by the pharmacist in the patient's records, released only (i) to the patient or, as the patient directs, to other practitioners and other pharmacists or (ii) to any other person authorized by law to receive the information.

(q) "Prospective drug review" or "drug utilization evaluation" means a screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse or misuse.

(r) "Patient counseling" means the communication between a pharmacist or a student pharmacist under the direct supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. The offer to counsel by the

pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or student pharmacist, shall be made in a face-to-face communication with the patient or patient's representative unless, in the professional judgment of the pharmacist, a face-to-face communication is deemed inappropriate or unnecessary. In that instance, the offer to counsel or patient counseling may be made in a written communication, by telephone, or in a manner determined by the pharmacist to be appropriate.

(s) "Patient profiles" or "patient drug therapy record" means the obtaining, recording, and maintenance of patient prescription and personal information.

(t) "Pharmaceutical care" includes, but is not limited to, the act of monitoring drug use and other patient care services intended to achieve outcomes that improve the patient's quality of life but shall not include the sale of over-the-counter drugs by a seller of goods and services who does not dispense prescription drugs.

(u) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, required under federal law to bear the label "Caution: Federal law requires dispensing by or on the order of a physician". A seller of goods and services who, only for the purpose of retail sales, compounds, sells, rents, or leases medical devices shall not, by reasons thereof, be required to be a licensed pharmacy.

(v) "Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable individual biometric or electronic identification process as approved by the Department.

(Source: P.A. 89-202, eff. 7-21-95; 89-507, eff. 7-1-97; 90-116, eff. 7-14-97; 90-253, eff. 7-29-97; 90-655, eff. 7-30-98; 90-742, eff. 8-13-98.)

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

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

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

Each member shall be appointed by the Governor.

The terms of all members serving as of March 31, 1999 shall expire on that date. The Governor shall appoint 3 persons to serve one-year terms, 3 persons to serve 3-year terms, and 3 persons to serve 5-year terms to begin April 1, 1999. Otherwise, members shall be appointed to 5 year terms. No member shall be eligible to serve more than 12 consecutive years.

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

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

Every person appointed a member of the Board shall take

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

The Board shall hold quarterly meetings and an annual meeting in January of each year and such other meetings at such times and places and upon such notice as the Board may determine and as its business may require. Five members of the Board shall constitute a quorum for the transaction of business. The Director shall appoint a pharmacy coordinator, who shall be someone other than a member of the Board. The pharmacy coordinator shall be a registered pharmacist in good standing in this State, shall be a graduate of an accredited college of pharmacy, or hold at a minimum a Bachelor of Science degree in Pharmacy and shall have at least 5 years' experience in the practice of pharmacy immediately prior to his appointment. The pharmacy coordinator shall be the executive administrator and the chief enforcement officer of the Pharmacy Practice Act <u>of 1987</u>.

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

The Director shall, in conformity with the Personnel Code, employ not less than 7 pharmacy investigators and 2 pharmacy supervisors. Each pharmacy investigator and each supervisor shall be a registered pharmacist in good standing in this State, and shall be a graduate of an accredited college of pharmacy and have at least 5 years of experience in the practice of pharmacy. The Department shall also

employ at least one attorney who is a pharmacist to prosecute violations of this Act and its rules. The Department may, in conformity with the Personnel Code, employ such clerical and other employees as are necessary to carry out the duties of the Board.

The duly authorized pharmacy investigators of the Department shall have the right to enter and inspect during business hours any pharmacy or any other place in the State of Illinois holding itself out to be a pharmacy where medicines or drugs or drug products or proprietary medicines are sold, offered for sale, exposed for sale, or kept for sale. Except as otherwise provided below, the pharmacy investigators shall be the only Department investigators authorized to inspect, investigate, and monitor probation compliance of pharmacists, ~~and~~ pharmacies, and pharmacy technicians. The Department may authorize any agent to monitor a pharmacist's or pharmacy technician's probation in cases of addiction or impairment relating to drugs or alcohol.

(Source: P.A. 90-253, eff. 7-29-97; 91-827, eff. 6-13-00; revised 12-07-01.)

(225 ILCS 85/14) (from Ch. 111, par. 4134)

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

Sec. 14. Structural and equipment requirements. No person shall establish or move to a new location any pharmacy unless the pharmacy is licensed with the Department and has on file with the Department a verified statement that:

(1) such pharmacy is or will be engaged in the practice of pharmacy; and

(2) such pharmacy will have in stock and shall maintain sufficient drugs or ~~and~~ materials as to protect the public it serves within 30 days after the issuance of the registration of the pharmacy.

Division I, II, III, IV, or V pharmacies shall be in a suitable, well-lighted and well-ventilated area with at least 300 square feet of clean and sanitary contiguous space and shall be suitably equipped for compounding prescriptions, storage of drugs and sale of drugs and to otherwise conduct the practice of pharmacy. The space occupied shall be equipped with a sink with hot and cold water or facilities for heating water, proper sewage outlet, refrigeration storage equipment, and such fixtures, facilities, drugs, equipment and material, which shall include the current editions of the United States Pharmacopoeia/DI, Facts and Comparisons, or any other current compendium approved by the Department, and other such reference works, as will enable a pharmacist to practice pharmacy, including this Act and the rules promulgated under this Act. Such pharmacy shall have the following items: accurate weights of 0.5 gr. to 4 oz. and 20 mg to 100 Gm; and a prescription balance equipped with balance indicator and with mechanical means of arresting the oscillations of the mechanism and which balance shall be sensitive to 0.5 grain (32 mg) or less or an alternative weighing device as approved by the Department, and such other measuring devices as may be necessary for the conduct of the practice of pharmacy.

The provisions of this Section with regard to 300 square feet of space shall apply to any pharmacy which is opened after the effective date of this Act. Nothing shall require a pharmacy in existence on the effective date of this Act which is comprised of less than 300 square feet to provide additional space to meet these requirements.

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

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

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

Sec. 15. Pharmacy requirements. It shall be unlawful for

the owner of any pharmacy, as defined in this Act, to operate or conduct the same, or to allow the same to be operated or conducted, unless:

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

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

(c) The pharmacy is licensed under this Act to do business.

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

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

Division II. Licenses for pharmacies whose primary pharmacy service is provided to patients or residents of facilities licensed under the Nursing Home Care Act or the Hospital Licensing Act, or "An Act in relation to the founding and operation of the University of Illinois Hospital and the conduct of University of Illinois health care programs", approved July 3, 1931, as amended, and which are not located in the facilities they serve.

Division III. Licenses for pharmacies which are located in a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act, or "An Act in relation to the founding and operation of the University of Illinois Hospital and the conduct of University of Illinois health care programs", approved July 3, 1931, as amended, or a facility

which is operated by the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) or the Department of Corrections, and which provide pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.

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

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

Division VI. Licenses for pharmacies in which the practice of pharmacy is conducted without the compounding and dispensing of drugs or medical devices.

Division VII. Licenses for pharmacies in which a specialized area of pharmacy is currently being practiced, but is not addressed by one or more of the current divisions of licenses.

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

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

representation is made or appears or such a sign is allowed to remain upon or in such a place of business shall constitute a separate offense under this Act.

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

(Source: P.A. 89-507, eff. 7-1-97; 90-253, eff. 7-29-97.)

(225 ILCS 85/17.1 new)

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

Sec. 17.1. Pharmacy technician training.

(a) Beginning January 1, 2004, it shall be the joint responsibility of a pharmacy and its pharmacist in charge to have trained all of its pharmacy technicians or obtain proof of prior training in all of the following topics as they relate to the practice site:

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

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

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

(4) Pharmaceutical and medical terminology.

(5) Record keeping requirements.

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

(b) Within 3 months after initial employment or changing the duties and responsibilities of a pharmacy technician, it shall be the joint responsibility of the pharmacy and the pharmacist in charge to train the pharmacy technician or obtain proof of prior training in the areas listed in subsection (a) of this Section as they relate to the practice

site.

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

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

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

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

Sec. 18. Record retention. There shall be kept in every drugstore or pharmacy a suitable book, file, or electronic record keeping system in which shall be preserved for a period of not less than 5 years the original of every written prescription and the original transcript or copy of every verbal prescription filled, compounded, or dispensed, in such pharmacy; and such book or file of prescriptions shall at all reasonable times be open to inspection to the pharmacy coordinator and the duly authorized agents or employees of the Department.

Every prescription filled or refilled shall contain the unique identifier of the person authorized to practice pharmacy under the provision of this Act who fills or refills the prescription.

Records kept pursuant to this Section may be maintained in an alternative data retention system, such as a direct digital imaging system, provided that:

(1) the records maintained in the alternative data retention system contain all of the information required in a manual record;

(2) the data processing system is capable of producing a hard copy of the electronic record on the request of the Board, its representative, or other authorized local, State, or federal law enforcement or

regulatory agency; and

(3) the digital images are recorded and stored only by means of a technology that does not allow subsequent revision or replacement of the images.

As used in this Section, "digital imaging system" means a system, including people, machines, methods of organization, and procedures, that provides input, storage, processing, communications, output, and control functions for digitized representations of original prescription records.

Inpatient drug orders may be maintained within an institution in a manner approved by the Department.

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

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

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

Sec. 19. Nothing contained in this Act shall be construed to prohibit a pharmacist licensed in this State from filling or refilling a valid prescription for prescription drugs which is on file in a pharmacy licensed in any state and has been transferred from one pharmacy to another by any means, including by way of electronic data processing equipment upon the following conditions and exceptions:

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

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

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

(c) Notify the pharmacy where the prescription is

on file that the prescription must be canceled.

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

(e) Obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the professional judgment of the dispensing pharmacist, so requires. ~~Any--interference--with--the-professional judgment--of--the--dispensing--pharmacist--by--any--other registered-pharmacist,-his-agents,-or-employees-shall--be grounds-for-revocation-or-suspension-of-the-permit-issued to-the-pharmacy.~~

(2) Upon receipt of a request for prescription information set forth in subparagraph (d) of paragraph (1) of this Section, if the requested pharmacist is satisfied in his professional judgment that such request is valid and legal, the requested pharmacist shall:

(a) Provide such information accurately and completely.

(b) Record on the face of the prescription the name of the requesting pharmacy and pharmacist and the date of request.

(c) Cancel the prescription on file by writing the word "void" on its face. No further prescription information shall be given or medication dispensed pursuant to such original prescription.

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

obtained; such notice shall then cancel the prescription in the same manner as set forth in subparagraph (c) of paragraph (2) of this Section.

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

(5) Prescriptions for drugs in Schedules III, IV, and V of the Illinois Controlled Substances Act may be transferred only once and may not be further transferred.

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

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

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

Sec. 22. Except only in the case of a drug, medicine or poison which is lawfully sold or dispensed, at retail, in the original and unbroken package of the manufacturer, packer, or distributor thereof, and which package bears the original label thereon showing the name and address of the manufacturer, packer, or distributor thereof, and the name of the drug, medicine, or poison therein contained, and the directions for its use, no person shall sell or dispense, at retail, any drug, medicine, or poison, without affixing to the box, bottle, vessel, or package containing the same, a label bearing the name of the article distinctly shown, and the directions for its use, with the name and address of the pharmacy wherein the same is sold or dispensed. However, in the case of a drug, medicine, or poison which is sold or dispensed pursuant to a prescription of a physician licensed to practice medicine in all of its branches, licensed dentist, licensed veterinarian, licensed podiatrist, or

therapeutically or diagnostically certified optometrist authorized by law to prescribe drugs or medicines or poisons, the label affixed to the box, bottle, vessel, or package containing the same shall show: (a) the name and address of the pharmacy wherein the same is sold or dispensed; (b) the name or initials of the person, authorized to practice pharmacy under the provisions of this Act, selling or dispensing the same, (c) the date on which such prescription was filled; (d) the name of the patient; (e) the serial number of such prescription as filed in the prescription files; (f) the last name of the practitioner who prescribed such prescriptions; (g) the directions for use thereof as contained in such prescription; and (h) the proprietary name or names or the established name or names of the drugs, the dosage and quantity, except as otherwise authorized by regulation of the Department. ~~Any--person--who--sells-or dispenses-any-drug,-medicine-or-poison-shall-sell-or-dispense such-drug,-medicine-or-poison-in-good-faith.---"Good--faith", for--purposes-of-this-Section,-has-the-meaning-ascribed-to-it in-subsection-(u)-of-Section-102-of-the-"Illinois--Controlled Substances--Act",--approved--August-16,-1971,-as-amended.~~ The Department shall establish rules governing labeling in Division II and Division III pharmacies.

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

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

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

Sec. 27. Fees. The following fees are not refundable.

(A) Certificate of pharmacy technician.

(1) The fee for application for a certificate of registration as a pharmacy technician is $40.

(2) The fee for the renewal of a certificate of registration as a pharmacy technician shall be calculated at the rate of $25 per year.

(B) License as a pharmacist.

(1) The fee for application for a license is $75.

(2) In addition, applicants for any examination as a registered pharmacist shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

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

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

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

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

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

(C) License as a pharmacy.

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

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

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

(D) General Fees.

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

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

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

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

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

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

(E) Except as provided in subsection (F), all moneys received by the Department under this Act shall be deposited in the Illinois State Pharmacy Disciplinary Fund hereby created in the State Treasury and shall be used only for the

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

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

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

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

(G) (Blank).

(Source: P.A. 90-372, eff. 7-1-98; 91-239, eff. 1-1-00.)

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

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

Sec. 30. (a) In accordance with Section 11 of this Act, the Department may refuse to issue, restore, or renew, or may

revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper with regard to any license or certificate of registration for any one or combination of the following causes:

1. Material misstatement in furnishing information to the Department.

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

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

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

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

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

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

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

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

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

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

12. Physical illness, including but not limited to,

deterioration through the aging process, or loss of motor skill which results in the inability to practice the profession with reasonable judgment, skill or safety.

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

14. The applicant, or licensee has been convicted in state or federal court of any crime which is a felony or any misdemeanor related to the practice of pharmacy, of which an essential element is dishonesty.

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

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

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

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

20. Physical illness which results in the inability to practice with reasonable judgment, skill or safety, or mental incompetency as declared by a court of competent

jurisdiction.

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

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

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

(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) In any order issued in resolution of a disciplinary proceeding, the Board may request any licensee found guilty of a charge involving a significant violation of subsection (a) of Section 5, or paragraph 19 of Section 30 as it

pertains to controlled substances, to pay to the Department a fine not to exceed $2,000.

(e) In any order issued in resolution of a disciplinary proceeding, in addition to any other disciplinary action, the Board may request any licensee found guilty of noncompliance with the continuing education requirements of Section 12 to pay the Department a fine not to exceed $1000.

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

(Source: P.A. 86-596; 86-1434; 86-1472; 87-1207.)

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