



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0010

Introduced 1/9/2019, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

225 ILCS 85/15	from Ch. 111, par. 4135
225 ILCS 85/15.1 new	
225 ILCS 85/18	from Ch. 111, par. 4138

Amends the Pharmacy Practice Act. Requires that at least one registered pharmacy technician be on duty whenever the practice of pharmacy is conducted. Requires that pharmacies fill no more than 10 prescriptions per hour. Requires 10 pharmacy technician hours per 100 prescriptions filled. Prohibits pharmacies from requiring pharmacists to participate in advertising or soliciting activities that may jeopardize patient health, safety, or welfare and any activities or external factors that interfere with the pharmacist's ability to provide appropriate professional services. Provides that a pharmacist shall receive specified break periods. Provides that a pharmacy may not require a pharmacist to work during a break period, shall make available a break room meeting specified requirements, shall keep a complete and accurate record of the break periods and may not require a pharmacist to work more than 8 hours a workday. Provides for enforcement and penalties. Provides whistleblower protections for an employee of a pharmacy if the pharmacy retaliates against the employee for certain actions. Requires pharmacies to maintain a record of any errors in the receiving, filling, or dispensing of prescriptions.

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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 15 and 18 and by adding Section 15.1 as follows:

6 (225 ILCS 85/15) (from Ch. 111, par. 4135)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 15. Pharmacy requirements.

9 (1) It shall be unlawful for the owner of any pharmacy, as  
10 defined in this Act, to operate or conduct the same, or to  
11 allow the same to be operated or conducted, unless:

12 (a) It has a licensed pharmacist, authorized to  
13 practice pharmacy in this State under the provisions of  
14 this Act, and at least one pharmacy technician registered  
15 under the provisions of this Act on duty whenever the  
16 practice of pharmacy is conducted;

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

22 (c) The pharmacy is licensed under this Act to conduct  
23 the practice of pharmacy in any and all forms from the

1 physical address of the pharmacy's primary inventory where  
2 U.S. mail is delivered. If a facility, company, or  
3 organization operates multiple pharmacies from multiple  
4 physical addresses, a separate pharmacy license is  
5 required for each different physical address;-

6 (d) The pharmacy sets a prescription filling limit of  
7 not more than 10 prescriptions filled per hour;

8 (e) The pharmacy mandates at least 10 pharmacy  
9 technician hours per 100 prescriptions filled;

10 (f) The pharmacy places a general prohibition on  
11 activities that distract pharmacists that includes:

12 (i) advertising or soliciting that may jeopardize  
13 patient health, safety, or welfare; and

14 (ii) any activities or external factors, including  
15 promotional requirements and productivity quotas, that  
16 interfere with the pharmacist's ability to provide  
17 appropriate professional services;

18 (g) Notwithstanding any other provision of law, the  
19 pharmacy provides a minimum of 2 15-minute paid rest breaks  
20 and one 30-minute meal period in each workday on which the  
21 pharmacist works at least 7 hours; a pharmacy may not  
22 require a pharmacist to work during a break period; a  
23 pharmacy that violates this paragraph shall pay to the  
24 pharmacist 3 times the pharmacist's regular hourly rate of  
25 pay for each workday during which the required breaks were  
26 not provided;

1           (h) The pharmacy makes available at all times a room on  
2           the pharmacy's premises with adequate seating and tables  
3           for the purpose of allowing a pharmacist to enjoy break  
4           periods in a clean and comfortable environment;

5           (i) The pharmacy keeps a complete and accurate record  
6           of the break periods of its pharmacists; and

7           (j) The pharmacy limits a pharmacist from working more  
8           than 8 hours a workday.

9           (2) The Department may allow a pharmacy that is not located  
10          at the same location as its home pharmacy and at which pharmacy  
11          services are provided during an emergency situation, as defined  
12          by rule, to be operated as an emergency remote pharmacy. An  
13          emergency remote pharmacy operating under this subsection (2)  
14          shall operate under the license of the home pharmacy.

15          (3) The Secretary may waive the requirement for a  
16          pharmacist to be on duty at all times for State facilities not  
17          treating human ailments. This waiver of the requirement remains  
18          in effect until it is rescinded by the Secretary and the  
19          Department provides written notice of the rescission to the  
20          State facility.

21          (4) It shall be unlawful for any person, who is not a  
22          licensed pharmacy or health care facility, to purport to be  
23          such or to use in name, title, or sign designating, or in  
24          connection with that place of business, any of the words:  
25          "pharmacy", "pharmacist", "pharmacy department", "apothecary",  
26          "druggist", "drug", "drugs", "medicines", "medicine store",

1 "drug sundries", "prescriptions filled", or any list of words  
2 indicating that drugs are compounded or sold to the lay public,  
3 or prescriptions are dispensed therein. Each day during which,  
4 or a part which, such representation is made or appears or such  
5 a sign is allowed to remain upon or in such a place of business  
6 shall constitute a separate offense under this Act.

7 (5) The holder of any license shall conspicuously display  
8 it in the pharmacy in which he is engaged in the practice of  
9 pharmacy. The pharmacist in charge shall conspicuously display  
10 his name in such pharmacy. The pharmacy license shall also be  
11 conspicuously displayed.

12 (6) It is unlawful for any pharmacy or pharmacy's agent or  
13 representative to take any action against any person in  
14 retaliation for the exercise of rights under this Section. In  
15 any civil proceeding brought under this subsection, if the  
16 plaintiff establishes that he or she was employed by the  
17 defendant, exercised rights under this Section, or alleged in  
18 good faith that the defendant was not complying with this  
19 Section, and was thereafter terminated, demoted, or otherwise  
20 penalized by the defendant, then a rebuttable presumption shall  
21 arise that the defendant's action was taken in retaliation for  
22 the exercise of rights established by this Section. To rebut  
23 the presumption, the defendant must prove that the sole reason  
24 for the termination, demotion, or penalty was a legitimate  
25 business reason.

26 (7) A person claiming violation of this Section shall be

1 entitled to all remedies available under law or in equity,  
2 including, but not limited to, damages, back pay,  
3 reinstatement, or injunctive relief. Any person terminated in  
4 violation of this Section shall recover treble his or her lost  
5 normal daily compensation and fringe benefits, together with  
6 interest thereon, and any consequential damages suffered by the  
7 employee. The court shall award reasonable attorney's fees and  
8 costs to a prevailing plaintiff in an enforcement action under  
9 this Section.

10 (Source: P.A. 100-497, eff. 9-8-17.)

11 (225 ILCS 85/15.1 new)

12 Sec. 15.1. Whistleblower protection.

13 (a) In this Section, "retaliatory action" means the  
14 reprimand, discharge, suspension, demotion, denial of  
15 promotion or transfer, or change in the terms and conditions of  
16 employment of any employee of a pharmacy that is taken in  
17 retaliation for the employee's involvement in a protected  
18 activity as set forth in paragraphs (1) through (3) of  
19 subsection (b).

20 (b) A pharmacy shall not take any retaliatory action  
21 against an employee of the pharmacy because the employee does  
22 any of the following:

23 (1) discloses or threatens to disclose to a supervisor  
24 or to a public body an activity, inaction, policy, or  
25 practice implemented by a pharmacy that the employee

1 reasonably believes is in violation of a law, rule, or  
2 regulation;

3 (2) provides information to or testifies before any  
4 public body conducting an investigation, hearing, or  
5 inquiry into any violation of a law, rule, or regulation by  
6 a pharmacy; or

7 (3) assists or participates in a proceeding to enforce  
8 the provisions of this Act.

9 (c) A violation of this Section may be established only  
10 upon a finding that: (1) the employee of the pharmacy engaged  
11 in conduct described in subsection (b) of this Section, and (2)  
12 this conduct was a contributing factor in the retaliatory  
13 action alleged by the employee. There is no violation of this  
14 Section, however, if the facility demonstrates by clear and  
15 convincing evidence that it would have taken the same  
16 unfavorable personnel action in the absence of that conduct.

17 (d) The employee of the pharmacy may be awarded all  
18 remedies necessary to make the employee whole and to prevent  
19 future violations of this Section. Remedies imposed by the  
20 court may include, but are not limited to, all of the  
21 following:

22 (1) reinstatement of the employee to either the same  
23 position held before the retaliatory action or to an  
24 equivalent position;

25 (2) two times the amount of back pay;

26 (3) interest on the back pay;

1           (4) reinstatement of full fringe benefits and  
2           seniority rights; and

3           (5) payment of reasonable costs and attorney's fees.

4           (e) Nothing in this Section shall be deemed to diminish the  
5           rights, privileges, or remedies of an employee of a pharmacy  
6           under any other federal or State law, rule, or regulation or  
7           under any employment contract.

8           (225 ILCS 85/18) (from Ch. 111, par. 4138)

9           (Section scheduled to be repealed on January 1, 2020)

10          Sec. 18. Record retention. There shall be kept in every  
11          drugstore or pharmacy a suitable book, file, or electronic  
12          record keeping system in which shall be preserved for a period  
13          of not less than 5 years the original, or an exact, unalterable  
14          image, of every written prescription and the original  
15          transcript or copy of every verbal prescription filled,  
16          compounded, or dispensed, in such pharmacy; and such book,  
17          file, or electronic record keeping system of prescriptions  
18          shall at all reasonable times be open to inspection to the  
19          chief pharmacy coordinator and the duly authorized agents or  
20          employees of the Department. In addition, any errors in the  
21          receiving, filling, or dispensing of prescriptions of any kind,  
22          including any errors resulting in an adverse drug interaction  
23          or adversely affecting the health of the patient, shall be a  
24          part of these records.

25          Every prescription filled or refilled shall contain the



1 unique identifiers of the persons authorized to practice  
2 pharmacy under the provision of this Act who fills or refills  
3 the prescription.

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

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

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

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

17 (4) the prescriptions may be retained in written form  
18 or recorded in a data processing system, provided that such  
19 order can be produced in printed form upon lawful request.

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

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

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1 (Source: P.A. 100-497, eff. 9-8-17.)