



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB0076

Introduced 1/14/2021, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

225 ILCS 85/15	from Ch. 111, par. 4135
225 ILCS 85/15.7 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.

LRB102 03606 SPS 13619 b

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  
5 changing Sections 15 and 18 and by adding Section 15.7 as  
6 follows:

7 (225 ILCS 85/15) (from Ch. 111, par. 4135)

8 (Section scheduled to be repealed on January 1, 2023)

9 Sec. 15. Pharmacy requirements.

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

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

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

23 (c) The pharmacy is licensed under this Act to conduct

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

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

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

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

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

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

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

1       breaks were not provided;

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

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

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

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

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

23       (4) It shall be unlawful for any person, who is not a  
24       licensed pharmacy or health care facility, to purport to be  
25       such or to use in name, title, or sign designating, or in  
26       connection with that place of business, any of the words:

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

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

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

1 that the sole reason for the termination, demotion, or penalty  
2 was a legitimate business reason.

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

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

14 (225 ILCS 85/15.7 new)

15 Sec. 15.7. Whistleblower protection.

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

23 (b) A pharmacy shall not take any retaliatory action  
24 against an employee of the pharmacy because the employee does  
25 any of the following:

1           (1) discloses or threatens to disclose to a supervisor  
2           or to a public body an activity, inaction, policy, or  
3           practice implemented by a pharmacy that the employee  
4           reasonably believes is in violation of a law, rule, or  
5           regulation;

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

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

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

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

25           (1) reinstatement of the employee to either the same  
26           position held before the retaliatory action or to an

- 1       equivalent position;  
2       (2) two times the amount of back pay;  
3       (3) interest on the back pay;  
4       (4) reinstatement of full fringe benefits and  
5       seniority rights; and  
6       (5) payment of reasonable costs and attorney's fees.  
7       (e) Nothing in this Section shall be deemed to diminish  
8       the rights, privileges, or remedies of an employee of a  
9       pharmacy under any other federal or State law, rule, or  
10       regulation or under any employment contract.

11           (225 ILCS 85/18) (from Ch. 111, par. 4138)

12           (Section scheduled to be repealed on January 1, 2023)

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



1 interaction or adversely affecting the health of the patient,  
2 shall be a part of these records.

3 Every prescription filled or refilled shall contain the  
4 unique identifiers of the persons authorized to practice  
5 pharmacy under the provision of this Act who fills or refills  
6 the prescription.

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

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

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

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

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

24 As used in this Section, "digital imaging system" means a  
25 system, including people, machines, methods of organization,  
26 and procedures, that provides input, storage, processing,

1 communications, output, and control functions for digitized  
2 representations of original prescription records.

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

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