

January 27, 2020

**ILLINOIS HEALTH AND HOSPITAL ASSOCIATION  
M E M O R A N D U M**

**SUBJECT:** New Pharmacy Workplace Rules Enacted by Public Act 101-0621 (SB2104)

Legislation amending the Illinois Pharmacy Practice Act (Public Act 101-0621) was signed into law in late December and became effective on January 1, 2020. The new law renews and extends the Pharmacy Practice Act sunset until January 1, 2023. In addition, it puts into place several recommendations made by the Illinois Collaborative Pharmaceutical Task Force in its final report.

The Task Force was created pursuant to Public Act 100-0497 and charged with discussing and making recommendations to further advance the practice of pharmacy in a manner that recognizes the needs of the healthcare system, patients, pharmacies, pharmacists, and pharmacy technicians to maximize patient safety.

The Task Force included voting members from organizations that included:

- Illinois Association of Long Term Care Pharmacy Providers
- Illinois Council of Health-System Pharmacists
- Illinois Health and Hospital Association
- Illinois Pharmacists Association
- Illinois Retail Merchants Association
- Illinois State Medical Society
- Teamsters

And non-voting members from:

- University of Illinois at Chicago Medical Center
- University of Illinois Hospital & Health Sciences System
- Illinois Department of Financial and Professional Regulation

Meeting monthly from January 2018 to August 2019, the group addressed the 16 issues as stated in HB2392, which included whistleblower protection, prescription per hour fill limits, required pharmacist technician duty hours, prohibition on pharmacist distractions and solicitation activities, specified break room, break periods and record keeping, pharmacist workday hours, and error recording.

The following outlines new/revised requirements under Public Act 101-0621:

**Task Force (Section 4.5)**

- For the purposes of continuing dialogue on best practices for Illinois pharmacy, the Illinois Collaborative Pharmaceutical Task Force will be reconvened in 2020. All represented organizations will continue to serve. The Illinois Department of Financial and Professional Regulation (the Department) will propose related rules by November 1, 2020.

**Pharmacy Technicians (Section 9/9.5/17.1)**

- A registered pharmacy technician may be delegated to perform any task within the practice of pharmacy if specifically trained for that task, with the exception of patient counseling, drug regimen review, and clinical conflict resolution.
- Beginning on January 1, 2022, it shall be the joint responsibility of a pharmacy and its pharmacist in charge to ensure that all new pharmacy technicians are required to have graduated from an accredited training program or have documentation verifying successful completion of a standardized nationally accredited education and training program.
- Within 2 years of initial pharmacy technician licensure and within 6 months before beginning any new duties, it shall be the joint responsibility of a pharmacy and its pharmacist in charge to train the registered pharmacy technician or obtain proof of prior training or appropriate progress in standardized nationally accredited education and training program.
- A pharmacy shall maintain an up-to-date training program policies and procedures manual describing the duties of a registered pharmacy technician and a registered certified pharmacy technician.

**Workforce Workday (Section 15.1)**

- A licensed pharmacy may not require a pharmacist, student pharmacist, or pharmacy technician to work longer than 12 continuous hours per day, inclusive of breaks, unless, in the pharmacist's professional judgment, working longer than 12 hours or working without breaks or uninterrupted breaks is necessary to minimize immediate health risks for patients.

**Pharmacist Breaks (Section 15.1)**

- A pharmacist who works 6 continuous hours or longer per day shall be allowed to take, at minimum, one 30-minute uninterrupted meal break and one 15-minute break during that 6-hour period, unless, in the pharmacist's professional judgment, working without breaks or uninterrupted breaks is necessary to minimize immediate health risks for patients.
- A pharmacist who works 12 continuous hours shall be allowed to take, at minimum, one 30-minute uninterrupted meal break and two 15-minute breaks during that 12-hour period.
- A pharmacist who is entitled to breaks shall not be required to work more than 5 continuous hours (excluding the 15-minute break time) before being given the opportunity to take the meal break.
- A pharmacist must be given access to a private break room for break time if a private break room is available.

- A pharmacy may, but is not required to, close when a pharmacist takes a break. If the pharmacy doesn't close, the pharmacist must remain available for emergencies.
- In addition, when a pharmacist is on break:
  - Pharmacy technicians, pharmacy students, and other authorized supportive staff may continue to perform duties as allowed under the Pharmacy Practice Act.
  - No duties that require the professional judgment of a pharmacist may be performed by pharmacy technicians or support staff.
  - Only prescriptions that have received final verification by a pharmacist and do not require counseling may be dispensed.
  - Prescriptions that require counseling, including all new prescriptions and those refill prescriptions for which a pharmacist has determined that counseling is necessary, may be dispensed only if the following are met:
    - i. The patient or designee picking up the prescription is told the pharmacist is on a break and offered the chance to wait to receive counseling.
    - ii. If the patient or designee declines to wait, the patient's or designee's telephone number is obtained.
    - iii. After break, the pharmacist makes efforts to contact the patient or designee to provide counseling.
    - iv. The pharmacist documents the provided counseling or at least 2 attempts and efforts to contact the patient or designee; documentation shall be retained for 2 years and available to the Pharmacy Board for 2 years.
- In a pharmacy staffed by at least 2 pharmacists the breaks shall be staggered.
- A pharmacy shall keep and maintain a record showing its pharmacists' daily breaks periods.

#### **Automated Prescription Refills (Section 22c)**

- A patient or patient's agent must enroll each prescription medication in an auto-refill program before the prescription can be auto-refilled.
- Beginning January 1, 2021, a pharmacy using the National Council for Prescription Drug Programs' SCRIPT standard for receiving electronic prescriptions must enable, activate, and maintain the ability to retrieve transmissions of electronic prescription cancellation and to transmit cancellation response transactions.
- Within 2 days of receipt of a prescription cancellation transaction, pharmacy staff must deactivate the cancellation or provide automatic cancellation deactivation.
- The Department will provide rules to ensure discontinued medications are not dispensed.

#### **Discipline (Section 30)**

- The Department may refuse to issue, renew, or revoke a license, or may suspend, place on probation, fine (not to exceed \$10,000/violation), or take any disciplinary or non-disciplinary action against any license for any of the following:
  - Using advertising or making solicitations that may jeopardize the health, safety, or welfare of patients, including those that:
    - A. Are false, fraudulent, deceptive, or misleading; or

- B. Include any claim that can't be substantiated.
- Requiring a pharmacist to participate in the use of or distribution of advertisements or in making solicitations that may jeopardize the health, safety, or welfare of patients.
- Failing to provide a working environment for all pharmacy personnel that may jeopardize the health, safety, or welfare of patients, including failing to:
  - A. Employ sufficient personnel to prevent fatigue, distraction, or other conditions that interfere with a pharmacist's ability to practice with competency and safety or creates an environment that jeopardizes patient care.
  - B. Provide appropriate opportunities for uninterrupted rest periods and meal breaks.
  - C. Provide adequate time for a pharmacist to complete professional duties and responsibilities, including drug utilization review, immunization, counseling, prescription verification, and all other duties as listed in the Department rules.
- Introducing or enforcing external factors, such as productivity, production quotas, or other programs against pharmacists, student pharmacists, or pharmacy technicians, to the extent that they interfere with the ability to provide appropriate professional services to the public.
- Providing an incentive for or inducing the transfer of a prescription without a professional rationale.
- Any person who reports a violation of this section to the Department is protected by the Whistleblower Act.