



City of Chicago



O2017-979

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 2/22/2017

Sponsor(s): Burke (14)
Hairston (5)

Type: Ordinance

Title: Amendment of Municipal Code Chapter 7-24 by creating
new Section 7-24-010 entitled Pharmacy Work Rules

Committee(s) Assignment: Committee on Finance

Finance

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life and welfare of its citizens; and

WHEREAS, according to a report in the Journal of the American Medical Association, dangerous drug combinations are a major public health problem, injuring over 1.3 million people each year, and causing nearly 100,000 people to die as a result – making such reactions one of the six leading causes of death in the U.S.; and

WHEREAS, the Institute for Safe Medication Practices estimated 30 to 50 million prescriptions are filled incorrectly each year, totaling 2 percent of all the 4 billion prescriptions filled annually; and

WHEREAS, in 2013 the Institute for Safe Medicine Practices conducted a survey of 673 pharmacists revealing that 83% believed distractions due to performance metrics or measured wait times contributed to dispensing errors and that 49% felt specific time measurements were a significant contributing factor; and

WHEREAS, performance metrics, which measure the speed and efficiency of prescription work flow by such parameters as prescription wait times, percentage of prescriptions filled within a specified time period, number of prescriptions verified, and number of immunizations given per pharmacist shift, may distract pharmacists and impair their professional judgment; and

WHEREAS, the practice of performance metrics or quotas to pharmacists in the practice of pharmacy may cause distractions that could potentially decrease pharmacists' ability to perform drug utilization reviews, interact with patients, and maintain attention to details, which could ultimately lead to unsafe conditions in the pharmacy; and

WHEREAS, Pharmacists' roles are growing as one in ten people take five or more drugs, which is twice the percentage seen in 1994; and

WHEREAS, in filing prescriptions, pharmacists have primary duties to detect potential drug interactions, warn patients and prevent harm; and

WHEREAS, pharmacists are being asked to handle around 30 prescriptions an hour, leaving two minutes to fill a prescription, counsel the patient, and check for potential drug interactions; and

WHEREAS, the Chicago Tribune conducted an investigation over the last two years finding that 52% of 255 pharmacies tested in the Chicago region failed to warn patients about prescriptions for potential drug interactions that could be harmful or fatal; and

WHEREAS, the investigation found pharmacists frequently race through legally required drug safety reviews or skip them altogether; and

WHEREAS, under Illinois law, pharmacies are required to conduct several safety checks, including whether the dose is reasonable and whether the medication might interact with other drugs the patient is taking; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Chapter 7-24 of the Municipal Code of Chicago is hereby amended by creating a new Section and inserting the language as follows:

7-24-010. Pharmacy Work Rules.

A. As used in this section

It shall be unlawful for the owner of any pharmacy to operate or conduct the same, or to allow the same to be operated or conducted unless:

- 1) It has a licensed pharmacist, authorized to practice pharmacy by the State of Illinois, and at least one pharmacy technician registered by the State of Illinois on duty whenever the practice of pharmacy is conducted.
- 2) The pharmacy is licensed by the State of Illinois to conduct the practice of pharmacy in any and all forms from the physical address of the pharmacy's primary inventory where U.S. mail is delivered. If a facility, company, or organization operates multiple pharmacies from multiple physical addresses, a separate pharmacy license is required for each different physical address:
 - a. The pharmacy sets a prescription filling limit of not more than 10 prescriptions filled per hour;
 - b. The pharmacy mandates at least 10 pharmacy technician hours per 100 prescriptions filled;
 - c. The pharmacy places a general prohibition on activities that distract pharmacists that includes:
 - i. Advertising or soliciting that may jeopardize patient health, safety, or welfare; and
 - ii. Any activities or external factors, including promotional requirements and productivity quotas, that interfere with the pharmacist's ability to provide appropriate professional services;
 - d. Notwithstanding any other provision of law, the pharmacy provides a minimum of two 15-minute paid rest breaks and one 30-minute meal period in each workday on which the pharmacist works at least 7 hours; a pharmacy may not require a pharmacist to work during a break period; a pharmacy that violates this Section shall be subject to a fine of \$500 per each offense;

- e. The pharmacy shall make available at all times a room on the pharmacy's premises with adequate seating and tables for the purpose of allowing a pharmacist to enjoy break periods in a clean and comfortable environment;
 - f. The pharmacy shall keep a complete and accurate record of the break periods of its pharmacists; and
 - g. The pharmacy shall limit a pharmacist from working more than 8 hours a workday.
- 3) It is unlawful for any pharmacy or pharmacy's agent or representative to take any action against any person in retaliation for the exercise of rights under this Section. In any civil proceeding brought under this subsection, if the plaintiff establishes that he or she was employed by the defendant, exercised rights under this Section, or alleged in good faith that the defendant was not complying with this Section, and was thereafter terminated, demoted, or otherwise penalized by the defendant, then a rebuttable presumption shall arise that the defendant's action was taken in retaliation for the exercise of rights established by this Section. To rebut the presumption, the defendant must prove that the sole reason for the termination, demotion, or penalty was a legitimate business reason.
- 4) A person claiming violation of this Section shall be entitled to all remedies available under law or in equity, including, but not limited to, damages, back pay, reinstatement, or injunctive relief. Any person terminated in violation of this Section shall recover treble his or her lost normal daily compensation and fringe benefits, together with interest thereon, and any consequential damages suffered by the employee. The court shall award reasonable attorney's fees and costs to a prevailing plaintiff in an enforcement action under this Section.

B. Whistleblower Protections

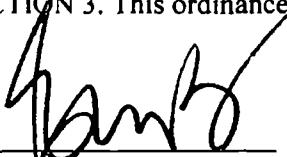
- 1) "Retaliatory Action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any employee of a pharmacy that is taken in retaliation for the employee's involvement in a protected activity as set forth in paragraphs (a) through (c) of subsection (2).
- 2) A pharmacy shall not take any retaliatory action against an employee of the pharmacy because an employee does any of the following:
- a. Discloses or threatens to disclose to a supervisor or to a public body an activity, inaction, policy, or practice implemented by a pharmacy that the employee reasonably believes is in violation of a law, rule, or regulation;
 - b. Provides information to or testifies before any public body conducting an investigation, hearing or inquiry into any violation of a law, rule or regulation by a pharmacy; or
 - c. Assists or participates in a proceeding to enforce the provisions of this Section.
- 3) A violation of this Section may be established only upon a finding that: (1) the employee of the pharmacy engaged in conduct described in subsection (2) of this section, and (2) this conduct was a contributing factor in the retaliatory action alleged by the employee. There is no violation of this Section, however, if the facility demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of that conduct.

- 4) The employee of the pharmacy may be awarded all remedies necessary to make the employee whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:
- a. Reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;
 - b. Two times the amount of back pay;
 - c. Reinstatement of full fringe benefits and seniority rights; and
 - d. Payment of reasonable costs and attorney's fees.
- 5) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of an employee of a pharmacy under any other federal or State law, rule, or regulation or under any employment contract.

C. 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, or an exact, unalterable image, 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 of Public Health. In addition, any errors in receiving, filling, or dispensing of prescription of any kind, including any errors resulting in an adverse drug interaction or adversely affecting the health of the patient shall be a part of these records.

SECTION 3. This ordinance shall be in full force and effect 180 days from passage and approval.


Alderman Edward M. Burke, 14th Ward

 5