



General Assembly

January Session, 2001

Committee Bill No. 5682

LCO No. 4274

Referred to Committee on Public Health

Introduced by:
(PH)

AN ACT TRANSFERRING JURISDICTION OVER PHARMACISTS AND PHARMACIES TO THE DEPARTMENT OF PUBLIC HEALTH.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. On July 1, 2002, the Commission of Pharmacy shall be
2 transferred from the Department of Consumer Protection to the
3 Department of Public Health in accordance with the provisions of
4 sections 4-38d and 4-39 of the general statutes and this act. The
5 Commissioner of Consumer Protection and the Commissioner of
6 Public Health may take such actions and make such recommendations
7 to the General Assembly as they deem necessary to coordinate and
8 facilitate such transfer.

9 Sec. 2. Section 19a-13 of the general statutes is repealed and the
10 following is substituted in lieu thereof:

11 As used in subsection (a) of section 2c-2b, this chapter and chapters
12 368v, 369 to 375, inclusive, 378 to 381, inclusive, 383 to 388, inclusive,
13 398, [and] 399 and 400, unless the context otherwise requires:

14 (1) "Certificate" includes the whole or part of any Department of

15 Public Health permit which the department is authorized by the
16 general statutes to issue and which further: (A) Authorizes practice of
17 the profession by certified persons but does not prohibit the practice of
18 the profession by others, not certified; (B) prohibits a person from
19 falsely representing that [he] such person is certified to practice the
20 profession unless the person holds a certificate issued by the
21 department; (C) requires as a condition to certification that a person
22 submit specified credentials to the department which attest to
23 qualifications to practice the profession;

24 (2) "Emerging occupation or profession" means a group of health
25 care providers whose actual or proposed duties, responsibilities and
26 services include functions which are not presently regulated or
27 licensed or which are presently performed within the scope of practice
28 of an existing licensed or otherwise regulated health occupation or
29 profession;

30 (3) "License" includes the whole or part of any Department of Public
31 Health permit, approval or similar form of permission required by the
32 general statutes and which further requires: (A) Practice of the
33 profession by licensed persons only; (B) that a person demonstrate
34 competence to practice through an examination or other means and
35 meet certain minimum standards; (C) enforcement of standards by the
36 department or regulatory board or commission;

37 (4) "Public member" means an elector of the state who has no
38 substantial financial interest in, is not employed in or by, and is not
39 professionally affiliated with, any industry, profession, occupation,
40 trade or institution regulated or licensed by the board or commission
41 to which [he] such elector is appointed, and who has had no
42 professional affiliation with any such industry, profession, occupation,
43 trade or institution for three years preceding [his] such elector's
44 appointment to the board or commission;

45 (5) "Registration" means the required entry upon a list maintained
46 by the Department of Public Health of the name of a practitioner or the

47 address of a place where a practice or profession subject to the
48 provisions of subsection (a) of section 2c-2b, this chapter and chapters
49 368v, 369 to 375, inclusive, 378 to 381, inclusive, 383 to 388, inclusive,
50 398, [and] 399 and 400j may be engaged in;

51 (6) "Complaint" means a formal statement of charges issued by the
52 Department of Public Health.

53 Sec. 3. Subdivision (4) of subsection (a) of section 19a-14 of the
54 general statutes is repealed and the following is substituted in lieu
55 thereof:

56 (4) Adopt, with the advice and assistance of the appropriate board
57 or commission, and in accordance with chapter 54, any regulations
58 which are consistent with protecting the public health and safety and
59 which are necessary to implement the purposes of subsection (a) of
60 section 2c-2b, this chapter, and chapters 368v, 369 to 375, inclusive, 378
61 to 381, inclusive, 383 to 388, inclusive, 398, [and] 399 and 400j.

62 Sec. 4. Subsection (b) of section 19a-14 of the general statutes is
63 repealed and the following is substituted in lieu thereof:

64 (b) The department shall have the powers and duties indicated in
65 subsection (a) of this section with regard to the following professional
66 boards and commissions:

67 (1) The Connecticut Medical Examining Board, established under
68 section 20-8a;

69 (2) The Connecticut State Board of Examiners for Optometrists,
70 established under subsections (a) to (c), inclusive, of section 20-128a;

71 (3) The Connecticut State Board of Examiners for Nursing,
72 established under section 20-88;

73 (4) The Dental Commission, established under section 20-103a;

74 (5) The Board of Examiners of Psychologists, established under

75 section 20-186;

76 (6) The Connecticut Board of Veterinary Medicine, established
77 under section 20-196;

78 (7) The Connecticut Homeopathic Medical Examining Board,
79 established under section 20-8;

80 (8) The Connecticut State Board of Examiners for Opticians,
81 established under subsections (a) to (c), inclusive, of section 20-139a;

82 (9) The Connecticut State Board of Examiners for Barbers and
83 Hairdressers and Cosmeticians, established under section 20-235a;

84 (10) The Connecticut Board of Examiners of Embalmers and Funeral
85 Directors, established under section 20-208;

86 (11) Repealed by P.A. 99-102, S. 51;

87 (12) The State Board of Natureopathic Examiners, established under
88 section 20-35;

89 (13) The State Board of Chiropractic Examiners, established under
90 section 20-25;

91 (14) The Connecticut Board of Examiners in Podiatry, established
92 under section 20-51;

93 (15) The Board of Examiners of Hypertrichologists, established
94 under section 20-268; [and]

95 (16) The Connecticut State Board of Examiners for Physical
96 Therapists, established under section 20-67; and

97 (17) The Commission of Pharmacy, established under section 20-
98 572.

99 Sec. 5. Subsection (a) of section 19a-17 of the general statutes is
100 repealed and the following is substituted in lieu thereof:

101 (a) Each board or commission established under chapters 369 to 376,
102 inclusive, 378 to 381, inclusive, [and] 383 to 388, inclusive, and 400j,
103 and the Department of Public Health with respect to professions under
104 its jurisdiction which have no board or commission, may take any of
105 the following actions, singly or in combination, based on conduct
106 which occurred prior or subsequent to the issuance of a permit or a
107 license upon finding the existence of good cause:

108 (1) Revoke a practitioner's license or permit;

109 (2) Suspend a practitioner's license or permit;

110 (3) Censure a practitioner or permittee;

111 (4) Issue a letter of reprimand to a practitioner or permittee;

112 (5) Place a practitioner or permittee on probationary status and
113 require the practitioner or permittee to:

114 (A) Report regularly to such board, commission or department
115 upon the matters which are the basis of probation;

116 (B) Limit practice to those areas prescribed by such board,
117 commission or department;

118 (C) Continue or renew professional education until a satisfactory
119 degree of skill has been attained in those areas which are the basis for
120 the probation;

121 (6) Assess a civil penalty of up to ten thousand dollars; or

122 (7) Summarily take any action specified in this subsection against a
123 practitioner's license or permit upon receipt of proof that such
124 practitioner has been:

125 (A) Found guilty or convicted as a result of an act which constitutes
126 a felony under (i) the laws of this state, (ii) federal law, or (iii) the laws
127 of another jurisdiction and which, if committed within this state,

128 would have constituted a felony under the laws of this state; or

129 (B) Subject to disciplinary action similar to that specified in this
130 subsection by a duly authorized professional agency of any state, the
131 District of Columbia, a United States possession or territory or a
132 foreign jurisdiction. The applicable board or commission, or the
133 department, shall promptly notify the practitioner or permittee that
134 [his] such license or permit has been summarily acted upon pursuant
135 to this subsection and shall institute formal proceedings for revocation
136 within ninety days after such notification.

137 Sec. 6. Section 19a-20 of the general statutes is repealed and the
138 following is substituted in lieu thereof:

139 No member of any board or commission subject to the provisions of
140 [chapter 368v,] chapters 368v, 369 to 375, inclusive, 378 to 381,
141 inclusive, 383 to 388, inclusive, 398, [and] 399 and 400j, including a
142 member of a medical hearing panel established pursuant to subsection
143 (g) of section 20-8a, and no person making a complaint or providing
144 information to any of such boards or commissions or the Department
145 of Public Health as part of an investigation pursuant to section 19a-14,
146 as amended by this act, or a disciplinary action pursuant to section
147 19a-17, as amended by this act, shall, without a showing of malice, be
148 personally liable for damage or injury to a practitioner arising out of
149 any proceeding of such boards and commissions or department. A
150 person making a complaint or providing information to any of such
151 boards or commissions or to the Department of Public Health as part
152 of an investigation pursuant to section 19a-14, as amended by this act,
153 or a disciplinary action pursuant to section 19a-17, as amended by this
154 act, shall be entitled to indemnification and defense in the manner set
155 forth in section 5-141d with respect to a state officer or employee.

156 Sec. 7. Section 19a-23 of the general statutes is repealed and the
157 following is substituted in lieu thereof:

158 Each board or commission subject to the provisions of this chapter

159 and chapters 368v, 369 to 375, inclusive, 378 to 381, inclusive, 383 to
160 388, inclusive, 398, [and] 399 and 400] shall perform its own record-
161 keeping functions and shall provide the Department of Public Health
162 with a copy of the record of all of its meetings.

163 Sec. 8. Section 20-14f of the general statutes is repealed and the
164 following is substituted in lieu thereof:

165 A prescribing practitioner who, as part of [his] such prescribing
166 practitioner's practice, dispenses any drug other than professional
167 samples shall notify the Commissioner of Public Health and the
168 Commissioner of Consumer Protection that [he] such prescribing
169 practitioner is engaged in the dispensing of drugs and shall, biennially,
170 upon the date of renewal of the controlled substance registration
171 required by section 21a-317, inform the [commissioner of his]
172 Commissioner of Consumer Protection of such prescribing
173 practitioner's intent to continue to dispense drugs to [his] such
174 prescribing practitioner's patients.

175 Sec. 9. Section 20-14g of the general statutes is repealed and the
176 following is substituted in lieu thereof:

177 The Commissioner of [Consumer Protection] Public Health, with the
178 advice and assistance of the Commission of Pharmacy, may adopt
179 regulations, in accordance with chapter 54, to carry out the provisions
180 of sections 20-14c to 20-14f, inclusive.

181 Sec. 10. Subdivision (4) of section 20-571 of the general statutes is
182 repealed and the following is substituted in lieu thereof:

183 (4) "Commissioner" means the Commissioner of [Consumer
184 Protection] Public Health.

185 Sec. 11. Subdivision (8) of section 20-571 of the general statutes is
186 repealed and the following is substituted in lieu thereof:

187 (8) "Department" means the Department of [Consumer Protection]

188 Public Health.

189 Sec. 12. Subsection (a) of section 20-575 of the general statutes is
190 repealed and the following is substituted in lieu thereof:

191 (a) The commission shall administer and enforce the provisions of
192 sections 20-570 to 20-630, inclusive. The commission has all powers
193 specifically granted in the general statutes [, including the powers set
194 forth in sections 21a-7 and 21a-9,] and all further powers that are
195 reasonable and necessary to enable the commission to protect the
196 public interest in accordance with the duties imposed by sections
197 20-570 to 20-630, inclusive.

198 Sec. 13. Section 20-578 of the general statutes is repealed and the
199 following is substituted in lieu thereof:

200 Information received by the department, the commission or the
201 Department of [Public Health] Consumer Protection, through filed
202 reports or inspection or as otherwise authorized under chapters 418
203 and 420b and sections 20-570 to 20-630, inclusive, shall not be disclosed
204 publicly in such a manner as to identify individuals or institutions,
205 except in a proceeding involving the question of licensure or the right
206 to practice. Nothing in this section shall be construed to prohibit the
207 commissioner from disclosing information gained through the
208 inspection of pharmacies and outlets holding permits for the sale of
209 nonlegend drugs if the commissioner considers such disclosure to be
210 in the interest of public health.

211 Sec. 14. Section 20-579 of the general statutes is repealed and the
212 following is substituted in lieu thereof:

213 (a) The commission may refuse to authorize the issuance of a
214 temporary permit to practice pharmacy, may refuse to authorize the
215 issuance or renewal of a license to practice pharmacy, a license to
216 operate a pharmacy or a registration of a pharmacy intern or pharmacy
217 technician, and may revoke or suspend a license or temporary permit

218 to practice pharmacy, a license to operate a pharmacy, or a registration
219 of a pharmacy intern or a pharmacy technician, and may assess a civil
220 penalty of up to one thousand dollars or take other action permitted in
221 [subdivision (7) of section 21a-7] section 19a-17, as amended by this
222 act, if the applicant or holder of the license, temporary permit or
223 registration: (1) Has violated a statute or regulation relating to drugs,
224 devices or the practice of pharmacy of this state, any state of the
225 United States, the United States, the District of Columbia, the
226 Commonwealth of Puerto Rico, any territory or insular possession
227 subject to the jurisdiction of the United States or a foreign jurisdiction;
228 (2) has been convicted of violating any criminal statute relating to
229 drugs, devices or the practice of pharmacy of this state, any state of the
230 United States, the United States, the District of Columbia, the
231 Commonwealth of Puerto Rico, any territory or insular possession
232 subject to the jurisdiction of the United States or a foreign jurisdiction;
233 (3) has been disciplined by, or is the subject of pending disciplinary
234 action or an unresolved complaint before, the duly authorized
235 pharmacy disciplinary agency of any state of the United States, the
236 United States, the District of Columbia, the Commonwealth of Puerto
237 Rico, any territory or insular possession subject to the jurisdiction of
238 the United States or a foreign jurisdiction; (4) has been refused a
239 license or registration or renewal of a license or registration by any
240 state of the United States, the United States, the District of Columbia,
241 the Commonwealth of Puerto Rico, any territory or insular possession
242 subject to the jurisdiction of the United States or a foreign jurisdiction
243 based on grounds that are similar to grounds on which Connecticut
244 could refuse to issue or renew such a license or registration; (5) has
245 illegally possessed, diverted, sold or dispensed drugs or devices; (6)
246 abuses or excessively uses drugs, including alcohol; (7) has made false,
247 misleading or deceptive representations to the public or the
248 commission; (8) has maintained exclusive telephone lines to, has
249 maintained exclusive electronic communication with, or has exclusive
250 access to computers located in offices of prescribing practitioners,
251 nursing homes, clinics, hospitals or other health care facilities; (9) has

252 substituted drugs or devices except as permitted in section 20-619; (10)
253 has accepted, for return to regular stock, any drug already dispensed
254 in good faith or delivered from a pharmacy, and exposed to possible
255 and uncontrolled contamination or substitution; (11) has split fees for
256 professional services, including a discount or rebate, with a prescribing
257 practitioner or an administrator or owner of a nursing home, hospital
258 or other health care facility; (12) has entered into an agreement with a
259 prescribing practitioner or an administrator or owner of a nursing
260 home, hospital or other health care facility for the compounding or
261 dispensing of secret formula or coded prescriptions; (13) has
262 performed or been a party to a fraudulent or deceitful practice or
263 transaction; (14) has presented to the commission a diploma, license or
264 certificate illegally or fraudulently obtained, or obtained from a college
265 or school of pharmacy not approved by the commission; (15) has
266 performed incompetent or negligent work; (16) has falsified a
267 continuing education document submitted to the commission or
268 department or a certificate retained in accordance with the provisions
269 of subsection (d) of section 20-600; (17) has permitted a person not
270 licensed to practice pharmacy in this state to practice pharmacy in
271 violation of section 20-605, to use a pharmacist license or pharmacy
272 display document in violation of section 20-608, or to use words,
273 displays or symbols in violation of section 20-609; or (18) has failed to
274 maintain the entire pharmacy premises, its components and contents
275 in a clean, orderly and sanitary condition.

276 (b) The commission may refuse to authorize the issuance of a
277 temporary permit to practice pharmacy, may refuse to authorize the
278 issuance or renewal of a license to practice pharmacy, a license to
279 operate a pharmacy or a registration of a pharmacy intern or pharmacy
280 technician, and may revoke or suspend a license or temporary permit
281 to practice pharmacy, a license to operate a pharmacy, or a registration
282 of a pharmacy intern or a pharmacy technician, or take other action
283 permitted in [subdivision (7) of section 21a-7] section 19a-17, as
284 amended by this act, if the commission determines that the applicant
285 or holder of the license, temporary permit or registration has a

286 condition including, but not limited to, physical illness or loss of skill
287 or deterioration due to the aging process, emotional disorder or mental
288 illness, abuse or excessive use of drugs or alcohol that would interfere
289 with the practice of pharmacy, operation of a pharmacy or activities as
290 a pharmacy intern or pharmacy technician, provided the commission
291 may not, in taking action against a license, temporary permit or
292 registration holder on the basis of such a condition, violate the
293 provisions of section 46a-73 or 42 USC Section 12132 of the federal
294 Americans with Disabilities Act.

295 Sec. 15. Subsections (c) and (d) of section 20-590 of the general
296 statutes are repealed and the following is substituted in lieu thereof:

297 (c) The [Department of Consumer Protection] department shall,
298 upon authorization of the commission, issue a temporary permit to
299 practice pharmacy to an individual who: (1) Practices under the direct
300 supervision of a licensed pharmacist; (2) has an application for
301 reciprocity on file with the commission; (3) is a licensed pharmacist in
302 good standing in a state or jurisdiction from which such state's
303 pharmacy board or commission of pharmacy grants similar reciprocal
304 privileges to pharmacists licensed in this state; and (4) has no actions
305 pending against such individual's license with any state's pharmacy
306 board or commission of pharmacy.

307 (d) A temporary permit to practice pharmacy shall expire at the
308 time the individual with the temporary permit is licensed as a
309 pharmacist in this state, or not later than three months from the date of
310 issuance of such temporary permit, whichever occurs first. The
311 [Department of Consumer Protection] department shall not issue more
312 than one temporary permit to practice pharmacy to an individual, but
313 the commission, at its discretion, may authorize one three-month
314 extension of the temporary permit.

315 Sec. 16. Subsection (b) of section 20-596 of the general statutes is
316 repealed and the following is substituted in lieu thereof:

317 (b) The provisions of this section do not apply to a prescribing
318 practitioner or spouse or dependent child of a prescribing practitioner
319 (1) having an ownership or investment interest in a pharmacy prior to
320 July 1, 1993, (2) who inherits an ownership or investment interest in a
321 pharmacy, or (3) who is not required to maintain professional liability
322 insurance pursuant to section 20-11b, provided (A) if the prescribing
323 practitioner reinstates any such professional liability insurance, the
324 prescribing practitioner shall, within thirty days of doing so, notify the
325 [Commissioner of Public Health] commissioner of such reinstatement
326 and divest any interest the prescribing practitioner may have in any
327 pharmacy, or (B) if the interest is owned by the prescribing
328 practitioner's spouse or dependent child, the spouse or child shall
329 divest such interest in any pharmacy. Failure of the prescribing
330 practitioner or the prescribing practitioner's spouse or dependent child
331 to divest any such interest in a pharmacy within thirty days shall result
332 in the prescribing practitioner's license being suspended until such
333 time as the prescribing practitioner or the prescribing practitioner's
334 spouse or dependent child divests such interest in the pharmacy.

335 Sec. 17. Subsection (d) of section 21a-9 of the general statutes is
336 repealed and the following is substituted in lieu thereof:

337 (d) As used in chapters 390, 391, 392, 393, 394, 396, 400g, [400j,] 482
338 and 400l:

339 (1) "Certificate" includes the whole or part of any Department of
340 Consumer Protection permit which the department issues under
341 authority of the general statutes and which (A) authorizes practice of
342 the profession by certified persons but does not prohibit the practice of
343 the profession by others, not certified, (B) prohibits a person from
344 falsely representing that such person is certified to practice the
345 profession unless the person holds a certificate issued by the
346 department, and (C) requires as a condition of certification that a
347 person submit specified credentials to the department which attest to
348 qualifications to practice the profession.

349 (2) "License" includes the whole or part of any Department of
350 Consumer Protection permit, approval, or similar form of permission
351 which the department issues under authority of the general statutes
352 and which requires (A) practice of the profession by licensed persons
353 only, (B) demonstration of competence to practice by examination or
354 other means and meeting of certain minimum standards, and (C)
355 enforcement of standards by the department or regulatory board or
356 commission.

357 (3) "Registration" includes the whole or part of any permit which the
358 department issues under authority of the general statutes and which
359 (A) requires persons to place their names on a list maintained by the
360 department before they can engage in the practice of a specified
361 profession or occupation, (B) does not require a person to demonstrate
362 competence by examination or other means, and (C) may be revoked
363 or suspended by the commissioner for cause.

364 Sec. 18. Subdivision (5) of section 21a-6 of the general statutes is
365 repealed.

366 Sec. 19. This act shall take effect from its passage, except that
367 sections 2 to 18, inclusive, shall take effect July 1, 2002.

Statement of Purpose:

To transfer jurisdiction over the licensing and regulation of pharmacists and pharmacies from the Department of Consumer Protection to the Department of Public Health.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. MCDONALD, 148th Dist.