

By: Representative Ford

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 416

1 AN ACT TO AMEND SECTION 73-21-69, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE DATE OF REPEAL ON THE PROVISIONS OF LAW THAT CREATE
3 THE STATE BOARD OF PHARMACY AND PRESCRIBE ITS DUTIES AND POWERS;
4 TO REENACT SECTIONS 73-21-71 THROUGH 73-21-123, MISSISSIPPI CODE
5 OF 1972, WHICH CREATE THE STATE BOARD OF PHARMACY AND PRESCRIBE
6 ITS DUTIES AND POWERS; TO AMEND REENACTED SECTION 73-21-75,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT APPOINTMENTS TO THE
8 STATE BOARD OF PHARMACY SHALL BE MADE FROM NOMINATIONS SUBMITTED
9 BY THE MISSISSIPPI PHARMACISTS ASSOCIATION, WITH INPUT FROM THE
10 MAGNOLIA PHARMACEUTICAL SOCIETY AND OTHER PHARMACIST ASSOCIATIONS
11 OR SOCIETIES; TO PROVIDE THAT THE APPOINTMENTS TO THE BOARD FROM
12 CONGRESSIONAL DISTRICTS SHALL BE MADE FROM THE CONGRESSIONAL
13 DISTRICTS AS THEY EXISTED ON JULY 1, 2001; TO AMEND REENACTED
14 SECTION 73-21-111, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
15 REGISTRATION OF PHARMACY TECHNICIANS; AND FOR RELATED PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1.** Section 73-21-69, Mississippi Code of 1972, is
18 amended as follows:

19 73-21-69. Sections 73-21-71 through 73-21-123, which create
20 the State Board of Pharmacy and prescribe its duties and powers,
21 shall stand repealed on July 1, 2006.

22 **SECTION 2.** Section 73-21-71, Mississippi Code of 1972, is
23 reenacted as follows:

24 73-21-71. This chapter shall be known as the "Mississippi
25 Pharmacy Practice Act."

26 **SECTION 3.** Section 73-21-73, Mississippi Code of 1972, is
27 reenacted as follows:

28 73-21-73. As used in this chapter, unless the context
29 requires otherwise:

30 (a) "Administer" shall mean the direct application of a
31 prescription drug pursuant to a lawful order of a practitioner to
32 the body of a patient by injection, inhalation, ingestion or any
33 other means.



34 (b) "Board of Pharmacy," "Pharmacy Board," "MSBP" or
35 "board" shall mean the State Board of Pharmacy.

36 (c) "Compounding" means (i) the production,
37 preparation, propagation, conversion or processing of a sterile or
38 nonsterile drug or device either directly or indirectly by
39 extraction from substances of natural origin or independently by
40 means of chemical or biological synthesis or from bulk chemicals
41 or the preparation, mixing, measuring, assembling, packaging or
42 labeling of a drug or device as a result of a practitioner's
43 prescription drug order or initiative based on the
44 practitioner/patient/pharmacist relationship in the course of
45 professional practice, or (ii) for the purpose of, as an incident
46 to, research, teaching or chemical analysis and not for sale or
47 dispensing. Compounding also includes the preparation of drugs or
48 devices in anticipation of prescription drug orders based on
49 routine regularly observed prescribing patterns.

50 (d) "Continuing education unit" shall mean ten (10)
51 clock hours of study or other such activity as may be approved by
52 the board, including, but not limited to, all programs which have
53 been approved by the American Council on Pharmaceutical Education.

54 (e) "Deliver" or "delivery" shall mean the actual,
55 constructive or attempted transfer of a drug or device from one
56 person to another, whether or not for a consideration.

57 (f) "Device" shall mean an instrument, apparatus,
58 implement, machine, contrivance, implant, in vitro reagent or
59 other similar or related article, including any component part or
60 accessory which is required under federal or state law to be
61 prescribed by a practitioner and dispensed by a pharmacist.

62 (g) "Dispense" or "dispensing" shall mean the
63 interpretation of a valid prescription, order of a practitioner by
64 a pharmacist and the subsequent preparation of the drug or device
65 for administration to or use by a patient or other individual
66 entitled to receive the drug.



67 (h) "Distribute" shall mean the delivery of a drug or
68 device other than by administering or dispensing to persons other
69 than the ultimate consumer.

70 (i) "Drug" shall mean:

71 (i) Articles recognized as drugs in the official
72 United States Pharmacopeia, official National Formulary, official
73 Homeopathic Pharmacopeia, other drug compendium or any supplement
74 to any of them;

75 (ii) Articles intended for use in the diagnosis,
76 cure, mitigation, treatment or prevention of disease in man or
77 other animals;

78 (iii) Articles other than food intended to affect
79 the structure or any function of the body of man or other animals;
80 and

81 (iv) Articles intended for use as a component of
82 any articles specified in subparagraph (i), (ii) or (iii) of this
83 paragraph.

84 (j) "Drugroom" shall mean a business, which does not
85 require the services of a pharmacist, where prescription drugs or
86 prescription devices are bought, sold, maintained or provided to
87 consumers.

88 (k) "Extern" shall mean a student in the professional
89 program of a school of pharmacy accredited by the American Council
90 on Pharmaceutical Education who is making normal progress toward
91 completion of a professional degree in pharmacy.

92 (l) "Foreign pharmacy graduate" shall mean a person
93 whose undergraduate pharmacy degree was conferred by a recognized
94 school of pharmacy outside of the United States, the District of
95 Columbia and Puerto Rico. Recognized schools of pharmacy are
96 those colleges and universities listed in the World Health
97 Organization's World Directory of Schools of Pharmacy, or
98 otherwise approved by the Foreign Pharmacy Graduate Examination



99 Committee (FPGEC) certification program as established by the
100 National Association of Boards of Pharmacy.

101 (m) "Generic equivalent drug product" shall mean a drug
102 product which (i) contains the identical active chemical
103 ingredient of the same strength, quantity and dosage form; (ii) is
104 of the same generic drug name as determined by the United States
105 Adoptive Names and accepted by the United States Food and Drug
106 Administration; and (iii) conforms to such rules and regulations
107 as may be adopted by the board for the protection of the public to
108 assure that such drug product is therapeutically equivalent.

109 (n) "Interested directly" shall mean being employed by,
110 having full or partial ownership of, or control of, any facility
111 permitted or licensed by the Mississippi State Board of Pharmacy.

112 (o) "Interested indirectly" shall mean having a spouse
113 who is employed by any facility permitted or licensed by the
114 Mississippi State Board of Pharmacy.

115 (p) "Intern" shall mean a person who has graduated from
116 a school of pharmacy but has not yet become licensed as a
117 pharmacist.

118 (q) "Manufacturer" shall mean a person, business or
119 other entity engaged in the production, preparation, propagation,
120 conversion or processing of a prescription drug or device, if such
121 actions are associated with promotion and marketing of such drugs
122 or devices.

123 (r) "Manufacturer's distributor" shall mean any person
124 or business who is not an employee of a manufacturer, but who
125 distributes sample drugs or devices, as defined under subsection
126 (i) of this section, under contract or business arrangement for a
127 manufacturer to practitioners.

128 (s) "Manufacturing" of prescription products shall mean
129 the production, preparation, propagation, conversion or processing
130 of a drug or device, either directly or indirectly, by extraction
131 from substances from natural origin or independently by means of



132 chemical or biological synthesis, or from bulk chemicals and
133 includes any packaging or repackaging of the substance(s) or
134 labeling or relabeling of its container, if such actions are
135 associated with promotion and marketing of such drug or devices.

136 (t) "Misappropriation of a prescription drug" shall
137 mean to illegally or unlawfully convert a drug, as defined in
138 subsection (i) of this section, to one's own use or to the use of
139 another.

140 (u) "Nonprescription drugs" shall mean nonnarcotic
141 medicines or drugs that may be sold without a prescription and are
142 prepackaged and labeled for use by the consumer in accordance with
143 the requirements of the statutes and regulations of this state and
144 the federal government.

145 (v) "Person" shall mean an individual, corporation,
146 partnership, association or any other legal entity.

147 (w) "Pharmacist" shall mean an individual health care
148 provider licensed by this state to engage in the practice of
149 pharmacy. This recognizes a pharmacist as a learned professional
150 who is authorized to provide patient services.

151 (x) "Pharmacy" shall mean any location for which a
152 pharmacy permit is required and in which prescription drugs are
153 maintained, compounded and dispensed for patients by a pharmacist.
154 This definition includes any location where pharmacy-related
155 services are provided by a pharmacist.

156 (y) "Prepackaging" shall mean the act of placing small
157 precounted quantities of drug products in containers suitable for
158 dispensing or administering in anticipation of prescriptions or
159 orders.

160 (z) Unlawful or unauthorized "possession" shall mean
161 physical holding or control by a pharmacist of a controlled
162 substance outside the usual and lawful course of employment.

163 (aa) "Practice of pharmacy" shall mean a health care
164 service that includes, but is not limited to, the compounding,



165 dispensing, and labeling of drugs or devices; interpreting and
166 evaluating prescriptions; administering and distributing drugs and
167 devices; the compounding, dispensing and labeling of drugs and
168 devices; maintaining prescription drug records; advising and
169 consulting concerning therapeutic values, content, hazards and
170 uses of drugs and devices; initiating or modifying of drug therapy
171 in accordance with written guidelines or protocols previously
172 established and approved by the board; selecting drugs;
173 participating in drug utilization reviews; storing prescription
174 drugs and devices; ordering lab work in accordance with written
175 guidelines or protocols as defined by paragraph (jj) of this
176 section; providing pharmacotherapeutic consultations; supervising
177 supportive personnel and such other acts, services, operations or
178 transactions necessary or incidental to the conduct of the
179 foregoing.

180 (bb) "Practitioner" shall mean a physician, dentist,
181 veterinarian, or other health care provider authorized by law to
182 diagnose and prescribe drugs.

183 (cc) "Prescription" shall mean a written, verbal or
184 electronically transmitted order issued by a practitioner for a
185 drug or device to be dispensed for a patient by a pharmacist.

186 (dd) "Prescription drug" or "legend drug" shall mean a
187 drug which is required under federal law to be labeled with either
188 of the following statements prior to being dispensed or delivered:

189 (i) "Caution: Federal law prohibits dispensing
190 without prescription," or

191 (ii) "Caution: Federal law restricts this drug to
192 use by or on the order of a licensed veterinarian"; or a drug
193 which is required by any applicable federal or state law or
194 regulation to be dispensed on prescription only or is restricted
195 to use by practitioners only.



196 (ee) "Product selection" shall mean the dispensing of a
197 generic equivalent drug product in lieu of the drug product
198 ordered by the prescriber.

199 (ff) "Provider" or "primary health care provider" shall
200 include a pharmacist who provides health care services within his
201 or her scope of practice pursuant to state law and regulation.

202 (gg) "Registrant" shall mean a pharmacy or other entity
203 which is registered with the Mississippi State Board of Pharmacy
204 to buy, sell or maintain controlled substances.

205 (hh) "Repackager" means a person registered by the
206 Federal Food and Drug Administration as a repackager who removes a
207 prescription drug product from its marketed container and places
208 it into another, usually of smaller size, to be distributed to
209 persons other than the consumer.

210 (ii) "Supportive personnel" or "pharmacist technician"
211 shall mean those individuals utilized in pharmacies whose
212 responsibilities are to provide nonjudgmental technical services
213 concerned with the preparation and distribution of drugs under the
214 direct supervision and responsibility of a pharmacist.

215 (jj) "Written guideline or protocol" shall mean an
216 agreement in which any practitioner authorized to prescribe drugs
217 delegates to a pharmacist authority to conduct specific
218 prescribing functions in an institutional setting, or with
219 individual patients, provided that a specific protocol agreement
220 is signed on each patient and is filed as required by law or by
221 rule or regulation of the board.

222 (kk) "Wholesaler" shall mean a person who buys or
223 otherwise acquires prescription drugs or prescription devices for
224 resale or distribution, or for repackaging for resale or
225 distribution, to persons other than consumers.

226 **SECTION 4.** Section 73-21-75, Mississippi Code of 1972, is
227 reenacted and amended as follows:



228 73-21-75. (1) The State Board of Pharmacy created by former
229 Section 73-21-9 is hereby continued and reconstituted as follows:
230 The board shall consist of seven (7) appointed members. At least
231 one (1) appointment shall be made from each congressional
232 district. Each appointed member of the board shall be appointed
233 by the Governor, with the advice and consent of the Senate, from a
234 list of five (5) names submitted by the * * * Mississippi
235 Pharmacists Association, with input from the Magnolia
236 Pharmaceutical Society and other pharmacist associations or
237 societies. Of the members appointed, one (1) shall, at the time
238 of appointment, have had five (5) years' experience as a
239 pharmacist at a facility holding an institutional permit, and one
240 (1) shall, at the time of appointment, have had five (5) years'
241 experience as a pharmacist at a facility holding a retail permit.
242 Any person appointed to the board shall be limited to two (2) full
243 terms of office during any fifteen-year period, including any
244 member serving on May 14, 1992.

245 (2) The members of the board appointed and serving prior to
246 July 1, 1983, whose terms have not expired by July 1, 1983, shall
247 serve the balance of their terms as members of the reconstituted
248 board, and they shall be considered to be from the same
249 congressional districts from which they were originally appointed
250 if they still reside therein, even if the district boundaries have
251 changed subsequent to their original appointments. The Governor
252 shall appoint the remaining members of the reconstituted board in
253 the manner prescribed in subsection (1) of this section on July 1,
254 1983. The initial members of the reconstituted board shall serve
255 terms of office as follows:

256 (a) The term of the member from the First Congressional
257 District shall expire on July 1, 1984; and from and after July 1,
258 1996, this appointment shall be designated as Post 1.

259 (b) The term of the member from the Second
260 Congressional District shall expire on July 1, 1988; and from and



261 after July 1, 1996, this appointment shall be designated as Post
262 2.

263 (c) The term of the member from the Third Congressional
264 District shall expire on July 1, 1986; and from and after July 1,
265 1996, this appointment shall be designated as Post 3.

266 (d) The term of the member from the Fourth
267 Congressional District shall expire on July 1, 1985; and from and
268 after July 1, 1996, this appointment shall be designated as Post
269 4.

270 (e) The term of the member from the Fifth Congressional
271 District shall expire on July 1, 1987; and from and after July 1,
272 1996, this appointment shall be designated as Post 5.

273 (f) The term of one (1) of the members from the state
274 at large shall expire on July 1, 1985; and from and after July 1,
275 1996, this appointment shall be designated as Post 6.

276 (g) The term of the other member from the state at
277 large shall expire on July 1, 1988; and from and after July 1,
278 1996, this appointment shall be designated as Post 7.

279 The appointments of members from congressional districts as
280 provided under this section shall be made from the congressional
281 districts as they existed on July 1, 2001.

282 (3) At the expiration of a term, members of the board shall
283 be appointed in the manner prescribed in subsection (1) of this
284 section for terms of five (5) years from the expiration date of
285 the previous terms. Any vacancy on the board prior to the
286 expiration of a term for any reason, including resignation,
287 removal, disqualification, death or disability, shall be filled by
288 appointment of the Governor in the manner prescribed in subsection
289 (1) of this section for the balance of the unexpired term. The
290 Mississippi State Pharmaceutical Association/Mississippi
291 Pharmacists Association shall submit a list of nominees no more
292 than thirty (30) days after a vacancy occurs, and the Governor



293 shall fill such vacancies within ninety (90) days after each such
294 vacancy occurs.

295 (4) To be qualified to be a member of the board, a person
296 shall:

297 (a) Be an adult citizen of Mississippi for a period of
298 at least five (5) years preceding his appointment to the board;

299 (b) Be a pharmacist licensed and in good standing to
300 practice pharmacy in the State of Mississippi;

301 (c) Have at least five (5) years' experience as a
302 pharmacist; and

303 (d) Be actively engaged full time in the practice of
304 pharmacy in Mississippi.

305 (5) The Governor may remove any or all members of the board
306 on proof of unprofessional conduct, continued absence from the
307 state, or for failure to perform the duties of his office. Any
308 member who shall not attend two (2) consecutive meetings of the
309 board for any reason other than illness of such member shall be
310 subject to removal by the Governor. The president of the board
311 shall notify the Governor in writing when any such member has
312 failed to attend two (2) consecutive regular meetings. No removal
313 shall be made without first giving the accused an opportunity to
314 be heard in refutation of the charges made against him, and he
315 shall be entitled to receive a copy of the charges at the time of
316 filing.

317 **SECTION 5.** Section 73-21-77, Mississippi Code of 1972, is
318 reenacted as follows:

319 73-21-77. (1) Each person appointed as a member of the
320 board shall qualify by taking the oath prescribed by the
321 Constitution for the state officers, and shall file certificate
322 thereof in the Office of the Secretary of State within fifteen
323 (15) days after his appointment.



324 (2) There shall be a president of the board and such other
325 officers as deemed necessary by the board elected by and from its
326 membership.

327 (3) The board shall meet at least once each quarter to
328 transact business, and may meet at such additional times as it may
329 deem necessary. Such additional meetings may be called by the
330 president of the board or a majority of the members of the board.

331 (4) The place for each meeting shall be determined prior to
332 giving notice of such meeting and shall not be changed after such
333 notice is given without adequate subsequent notice.

334 (5) A majority of the members of the board shall constitute
335 a quorum for the conduct of the meeting and all actions of the
336 board shall be by a majority.

337 (6) Each member of the board shall receive a per diem as
338 provided in Section 25-3-69, not to exceed thirty (30) days in any
339 one (1) period of twelve (12) months, for each day actually
340 engaged in meetings of the board, together with necessary
341 traveling and other expenses as provided in Section 25-3-41.

342 **SECTION 6.** Section 73-21-79, Mississippi Code of 1972, is
343 reenacted as follows:

344 73-21-79. (1) The board shall employ an executive director
345 of the board. The executive director shall be a citizen of
346 Mississippi and a pharmacist licensed and in good standing to
347 practice pharmacy in the State of Mississippi, who has had five
348 (5) years' experience as a pharmacist.

349 (2) The executive director shall receive a salary to be set
350 by the board, subject to the approval of the State Personnel
351 Board, and shall be entitled to necessary expenses incurred in the
352 performance of his official duties. He shall devote full time to
353 the duties of his office and shall not be interested directly or
354 indirectly as defined in Section 73-21-73 in the operation of a
355 pharmacy in Mississippi or any other facility permitted by the



356 board or engaged in any other business that will interfere with
357 the duties of his office.

358 (3) The duties and responsibilities of the executive
359 director shall be defined by rules and regulations prescribed by
360 the board.

361 (4) The board may, in its discretion, employ persons in
362 addition to the executive director in such other positions or
363 capacities as it deems necessary to the proper conduct of board
364 business. Any pharmacist-investigator employed by the board may
365 have other part-time employment, provided that he shall not accept
366 any employment that would cause a conflict of interest in his
367 pharmacist-investigator duties. The board may employ legal
368 counsel to assist in the conduct of its business.

369 **SECTION 7.** Section 73-21-81, Mississippi Code of 1972, is
370 reenacted as follows:

371 73-21-81. The responsibility for the enforcement of the
372 provisions of this chapter shall be vested in the board. The
373 board shall have all of the duties, powers and authority
374 specifically granted by and necessary to the enforcement of this
375 chapter. The board may make, adopt, amend and repeal such rules
376 and regulations as may be deemed necessary by the board from time
377 to time for the proper administration and enforcement of this
378 chapter, in accordance with the provisions of the Mississippi
379 Administrative Procedures Law (Section 25-43-1 et seq.).

380 **SECTION 8.** Section 73-21-83, Mississippi Code of 1972, is
381 reenacted as follows:

382 73-21-83. (1) The board shall be responsible for the
383 control and regulation of the practice of pharmacy, to include the
384 regulation of pharmacy externs or interns and pharmacist
385 technicians, in this state, the regulation of the wholesaler
386 distribution of drugs and devices as defined in Section 73-21-73,
387 and the distribution of sample drugs or devices by manufacturer's



388 distributors as defined in Section 73-21-73 by persons other than
389 the original manufacturer or distributor in this state.

390 (2) A license for the practice of pharmacy shall be obtained
391 by all persons prior to their engaging in the practice of
392 pharmacy. However, the provisions of this chapter shall not apply
393 to physicians, dentists, veterinarians, osteopaths or other
394 practitioners of the healing arts who are licensed under the laws
395 of the State of Mississippi and are authorized to dispense and
396 administer prescription drugs in the course of their professional
397 practice.

398 (3) The initial licensure fee shall be set by the board but
399 shall not exceed Two Hundred Dollars (\$200.00).

400 (4) All students actively enrolled in a professional school
401 of pharmacy accredited by the American Council on Pharmaceutical
402 Education who are making satisfactory progress toward graduation
403 and who act as an extern or intern under the direct supervision of
404 a pharmacist in a location permitted by the Board of Pharmacy must
405 obtain a pharmacy student registration prior to engaging in such
406 activity. The student registration fee shall be set by the board
407 but shall not exceed One Hundred Dollars (\$100.00).

408 (5) All persons licensed to practice pharmacy prior to July
409 1, 1991, by the State Board of Pharmacy under Section 73-21-89
410 shall continue to be licensed under the provisions of Section
411 73-21-91.

412 **SECTION 9.** Section 73-21-85, Mississippi Code of 1972, is
413 reenacted as follows:

414 73-21-85. (1) To obtain a license to engage in the practice
415 of pharmacy by examination, or by score transfer, the applicant
416 shall:

417 (a) Have submitted a written application on the form
418 prescribed by the board;

419 (b) Be of good moral character;



420 (c) Have graduated from a school or college of pharmacy
421 accredited by the American Council of Pharmaceutical Education and
422 have been granted a pharmacy degree therefrom;

423 (d) Have successfully passed an examination approved by
424 the board;

425 (e) Have paid all fees specified by the board for
426 examination, not to exceed the cost to the board of administering
427 the examination;

428 (f) Have paid all fees specified by the board for
429 licensure; and

430 (g) Have submitted evidence of externship and/or
431 internship as specified by the board.

432 (2) To obtain a license to engage in the practice of
433 pharmacy, a foreign pharmacy graduate applicant shall obtain the
434 National Association of Boards of Pharmacy's Foreign Pharmacy
435 Graduate Examination Committee's certification, which shall
436 include, but not be limited to, successfully passing the Foreign
437 Pharmacy Graduate Equivalency Examination and attaining a total
438 score of at least five hundred fifty (550) on the Test of English
439 as a Foreign Language (TOEFL), and shall:

440 (a) Have submitted a written application on the form
441 prescribed by the board;

442 (b) Be of good moral character;

443 (c) Have graduated and been granted a pharmacy degree
444 from a college or school of pharmacy recognized and approved by
445 the National Association of Boards of Pharmacy's Foreign Pharmacy
446 Graduate Examination Committee;

447 (d) Have paid all fees specified by the board for
448 examination, not to exceed the cost to the board of administering
449 the examination;

450 (e) Have successfully passed an examination approved by
451 the board;



452 (f) Have completed the number of internship hours as
453 set forth by regulations of the board; and

454 (g) Have paid all fees specified by the board for
455 licensure.

456 (3) Each application or filing made under this section shall
457 include the Social Security number(s) of the applicant in
458 accordance with Section 93-11-64, Mississippi Code of 1972.

459 **SECTION 10.** Section 73-21-87, Mississippi Code of 1972, is
460 reenacted as follows:

461 73-21-87. (1) To obtain a license to engage in the practice
462 of pharmacy by reciprocity or license transfer, the applicant
463 shall:

464 (a) Have submitted a written application on the form
465 prescribed by the board;

466 (b) Be of good moral character;

467 (c) Have possessed at the time of initial licensure as
468 a pharmacist such other qualifications necessary to have been
469 eligible for licensure at that time in that state;

470 (d) Have presented to the board proof that any license
471 or licenses granted to the applicant by any other states have not
472 been suspended, revoked, cancelled or otherwise restricted for any
473 reason except nonrenewal or the failure to obtain required
474 continuing education credits; and

475 (e) Have paid all fees specified by the board for
476 licensure.

477 (2) No applicant shall be eligible for licensure by
478 reciprocity or license transfer or unless the state in which the
479 applicant was initially licensed also grants a reciprocal license
480 or transfer license to pharmacists licensed by this state under
481 like circumstances and conditions.

482 (3) Each application or filing made under this section shall
483 include the Social Security number(s) of the applicant in
484 accordance with Section 93-11-64, Mississippi Code of 1972.



485 **SECTION 11.** Section 73-21-89, Mississippi Code of 1972, is
486 reenacted as follows:

487 73-21-89. (1) The board shall issue a license to practice
488 pharmacy to any person, if such person be otherwise qualified,
489 upon presentation to the board of:

490 (a) Satisfactory proof that the applicant has been
491 graduated from the University of Mississippi School of Pharmacy;

492 (b) Written application for licensure; and

493 (c) Payment of all fees specified by the board for
494 licensure.

495 (2) The board shall not issue any new licenses pursuant to
496 this section after June 30, 1987.

497 (3) Each application or filing made under this section shall
498 include the Social Security number(s) of the applicant in
499 accordance with Section 93-11-64, Mississippi Code of 1972.

500 **SECTION 12.** Section 73-21-91, Mississippi Code of 1972, is
501 reenacted as follows:

502 73-21-91. (1) Every pharmacist shall renew his license
503 biennially. To renew his license, a pharmacist shall:

504 (a) Submit an application for renewal on the form
505 prescribed by the board;

506 (b) Submit satisfactory evidence of the completion in
507 the last licensure period of such continuing education units as
508 shall be required by the board, but in no case less than two (2)
509 continuing education units in the last licensure period;

510 (c) Pay such renewal fees as required by the board, not
511 to exceed Two Hundred Dollars (\$200.00) for each biennial
512 licensing period, provided that the board may add a surcharge of
513 not more than Five Dollars (\$5.00) to a license renewal fee to
514 fund a program to aid impaired pharmacists or pharmacy students.
515 Any pharmacist license renewal received postmarked after December
516 31 of the renewal period will be returned and a Fifty Dollar
517 (\$50.00) late renewal fee will be assessed prior to renewal.



518 (2) Any pharmacist who has defaulted in license renewal may
519 be reinstated within two (2) years upon payment of renewal fees in
520 arrears and presentation of evidence of the required continuing
521 education. Any pharmacist defaulting in license renewal for a
522 period in excess of two (2) years shall be required to
523 successfully complete the examination given by the board pursuant
524 to Section 73-21-85 before being eligible for reinstatement as a
525 pharmacist in Mississippi, or shall be required to appear before
526 the board to be examined for his competence and knowledge of the
527 practice of pharmacy, and may be required to submit evidence of
528 continuing education. If such person is found fit by the board to
529 practice pharmacy in this state, the board may reinstate his
530 license to practice pharmacy upon payment of all renewal fees in
531 arrears.

532 (3) Each application or filing made under this section shall
533 include the Social Security number(s) of the applicant in
534 accordance with Section 93-11-64, Mississippi Code of 1972.

535 **SECTION 13.** Section 73-21-93, Mississippi Code of 1972, is
536 reenacted as follows:

537 73-21-93. (1) The examination for licensure required under
538 Section 73-21-85 shall be given by the board at least once during
539 each year. The board shall determine the content and subject
540 matter of each examination, the place, time and date of the
541 administration of the examination and those persons who have
542 successfully passed the examination.

543 (2) The examination shall be prepared to measure the
544 competence of the applicant to engage in the practice of pharmacy.
545 The board may employ and cooperate with any organization or
546 consultant in the preparation and grading of an appropriate
547 examination, but shall retain the sole discretion and
548 responsibility of determining which applicants have successfully
549 passed such an examination.



550 (3) The board shall have authority to use the laboratories
551 of the school of pharmacy and other facilities of the University
552 of Mississippi for the purpose of examining applicants.

553 **SECTION 14.** Section 73-21-95, Mississippi Code of 1972, is
554 reenacted as follows:

555 73-21-95. The assistant pharmacist license is hereby
556 abolished after April 30, 1984. The board shall issue a license
557 to practice pharmacy to those persons presently holding an
558 assistant pharmacist license upon their meeting the requirements
559 of Section 73-21-91.

560 **SECTION 15.** Section 73-21-97, Mississippi Code of 1972, is
561 reenacted as follows:

562 73-21-97. (1) The board may refuse to issue or renew, or
563 may suspend, reprimand, revoke or restrict the license,
564 registration or permit of any person upon one or more of the
565 following grounds:

566 (a) Unprofessional conduct as defined by the rules and
567 regulations of the board;

568 (b) Incapacity of a nature that prevents a pharmacist
569 from engaging in the practice of pharmacy with reasonable skill,
570 confidence and safety to the public;

571 (c) Being found guilty by a court of competent
572 jurisdiction of one or more of the following:

573 (i) A felony;

574 (ii) Any act involving moral turpitude or gross
575 immorality; or

576 (iii) Violation of pharmacy or drug laws of this
577 state or rules or regulations pertaining thereto, or of statutes,
578 rules or regulations of any other state or the federal government;

579 (d) Fraud or intentional misrepresentation by a
580 licensee or permit holder in securing the issuance or renewal of a
581 license or permit;



582 (e) Engaging or aiding and abetting an individual to
583 engage in the practice of pharmacy without a license;

584 (f) Violation of any of the provisions of this chapter
585 or rules or regulations adopted pursuant to this chapter;

586 (g) Failure to comply with lawful orders of the board;

587 (h) Negligently or willfully acting in a manner
588 inconsistent with the health or safety of the public;

589 (i) Addiction to or dependence on alcohol or controlled
590 substances or the unauthorized use or possession of controlled
591 substances;

592 (j) Misappropriation of any prescription drug;

593 (k) Being found guilty by the licensing agency in
594 another state of violating the statutes, rules or regulations of
595 that jurisdiction; or

596 (1) The unlawful or unauthorized possession of a
597 controlled substance.

598 (2) In lieu of suspension, revocation or restriction of a
599 license as provided for above, the board may warn or reprimand the
600 offending pharmacist.

601 (3) In addition to the grounds specified in subsection (1)
602 of this section, the board shall be authorized to suspend the
603 license, registration or permit of any person for being out of
604 compliance with an order for support, as defined in Section
605 93-11-153. The procedure for suspension of a license,
606 registration or permit for being out of compliance with an order
607 for support, and the procedure for the reissuance or reinstatement
608 of a license, registration or permit suspended for that purpose,
609 and the payment of any fees for the reissuance or reinstatement of
610 a license, registration or permit suspended for that purpose,
611 shall be governed by Section 93-11-157 or 93-11-163, as the case
612 may be. If there is any conflict between any provision of Section
613 93-11-157 or 93-11-163 and any provision of this chapter, the



614 provisions of Section 93-11-157 or 93-11-163, as the case may be,
615 shall control.

616 **SECTION 16.** Section 73-21-99, Mississippi Code of 1972, is
617 reenacted as follows:

618 73-21-99. (1) Disciplinary action by the board against a
619 licensee, registrant or permit holder, or license, registration or
620 permit shall require the following:

621 (a) A sworn affidavit filed with the board charging a
622 licensee or permit holder with an act which is grounds for
623 disciplinary action as provided in Section 73-21-97; and

624 (b) An order of the Investigations Review Committee of
625 the board which shall cause the executive director of the board to
626 fix a time and place for a hearing by the board. The executive
627 director shall cause a written notice specifying the offense or
628 offenses for which the licensee or permit holder is charged and
629 notice of the time and place of the hearing to be served upon the
630 licensee or permit holder at least thirty (30) days prior to the
631 hearing date. Such notice may be served by mailing a copy thereof
632 by certified mail, postage prepaid, to the last known residence or
633 business address of the licensee or permit holder.

634 (2) The board shall designate two (2) of its members to
635 serve on a rotating no longer than three-consecutive-month basis
636 with the executive director and legal counsel for the board as an
637 Investigations Review Committee, and the board's investigators
638 shall provide status reports solely to the Investigations Review
639 Committee during monthly meetings of the board. Such reports
640 shall be made on all on-going investigations, and shall apply to
641 any routine inspections which may give rise to the filing of a
642 complaint. In the event any complaint on a licensee comes before
643 the board for possible disciplinary action, the members of the
644 board serving on the Investigations Review Committee which
645 reviewed the investigation of such complaint shall recuse
646 themselves and not participate in the disciplinary proceeding.



647 (3) The board acting by and through its Investigation Review
648 Committee may, if deemed necessary, issue a letter of reprimand to
649 any licensee, registrant or permit holder in lieu of formal action
650 by the board.

651 (4) The board, acting by and through its executive director,
652 is hereby authorized and empowered to issue subpoenas for the
653 attendance of witnesses and the production of books and papers at
654 such hearing. Process issued by the board shall extend to all
655 parts of the state and shall be served by any person designated by
656 the board for such service.

657 (5) The accused shall have the right to appear either
658 personally or by counsel or both to produce witnesses or evidence
659 in his behalf, to cross-examine witnesses and to have subpoenas
660 issued by the board.

661 (6) At the hearing, the board shall administer oaths as may
662 be necessary for the proper conduct of the hearing. All hearings
663 shall be conducted by the board, which shall not be bound by
664 strict rules of procedure or by the laws of evidence in the
665 conduct of its proceedings, but the determination shall be based
666 upon sufficient evidence to sustain it.

667 (7) Where, in any proceeding before the board, any witness
668 fails or refuses to attend upon a subpoena issued by the board,
669 refuses to testify, or refuses to produce any books and papers the
670 production of which is called for by a subpoena, the attendance of
671 such witness, the giving of his testimony or the production of the
672 books and papers shall be enforced by any court of competent
673 jurisdiction of this state in the manner provided for the
674 enforcement of attendance and testimony of witnesses in civil
675 cases in the courts of this state.

676 (8) The board shall, within thirty (30) days after
677 conclusion of the hearing, reduce its decision to writing and
678 forward an attested true copy thereof to the last known residence



679 or business address of such licensee or permit holder by way of
680 United States first class, certified mail, postage prepaid.

681 **SECTION 17.** Section 73-21-101, Mississippi Code of 1972, is
682 reenacted as follows:

683 73-21-101. (1) The right to appeal from the action of the
684 board in denying, revoking, suspending or refusing to renew any
685 license, registration or permit issued by the board, or fining or
686 otherwise disciplining any person is hereby granted. Such appeal
687 shall be to the chancery court of the county of the residence of
688 the licensee or permit holder on the record made, including a
689 verbatim transcript of the testimony at the hearing. The appeal
690 shall be taken within thirty (30) days after notice of the action
691 of the board in denying, revoking, suspending or refusing to renew
692 the license or permit, or fining or otherwise disciplining the
693 person. The appeal shall be perfected upon filing notice of the
694 appeal and by the prepayment of all costs, including the cost of
695 the preparation of the record of the proceedings by the board, and
696 the filing of a bond in the sum of Two Hundred Dollars (\$200.00),
697 conditioned that if the action of the board in denying, revoking,
698 suspending or refusing to renew the license or permit, or fining
699 or otherwise disciplining the person, be affirmed by the chancery
700 court, the licensee or permit holder will pay the costs of the
701 appeal and the action in the chancery court.

702 (2) If there is an appeal, such appeal shall act as a
703 supersedeas. The chancery court shall dispose of the appeal and
704 enter its decision promptly. The hearing on the appeal may, in
705 the discretion of the chancellor, be tried in vacation. The scope
706 of review of the chancery court shall be limited to a review of
707 the record made before the board to determine if the action of the
708 board is unlawful for the reason that it was (a) not supported by
709 substantial evidence, (b) arbitrary or capricious, (c) beyond the
710 power of the board to make, or (d) in violation of some statutory
711 or constitutional right of the appellant. The decision of the



712 chancery court may be appealed to the Supreme Court in the manner
713 provided by law.

714 (3) Actions taken by the board in suspending a license,
715 registration or permit when required by Section 93-11-157 or
716 93-11-163 are not actions from which an appeal may be taken under
717 this section. Any appeal of a suspension of a license,
718 registration or permit that is required by Section 93-11-157 or
719 93-11-163 shall be taken in accordance with the appeal procedure
720 specified in Section 93-11-157 or 93-11-163, as the case may be,
721 rather than the procedure specified in this section.

722 **SECTION 18.** Section 73-21-103, Mississippi Code of 1972, is
723 reenacted as follows:

724 73-21-103. (1) Upon the finding of the existence of grounds
725 for action against any permitted facility or discipline of any
726 person holding a license, registration or permit, seeking a
727 license, registration or permit, or seeking to renew a license or
728 permit under the provisions of this chapter, the board may impose
729 one or more of the following penalties:

730 (a) Suspension of the offender's license, registration
731 and/or permit for a term to be determined by the board;

732 (b) Revocation of the offender's license, registration
733 and/or permit;

734 (c) Restriction of the offender's license, registration
735 and/or permit to prohibit the offender from performing certain
736 acts or from engaging in the practice of pharmacy in a particular
737 manner for a term to be determined by the board;

738 (d) Imposition of a monetary penalty as follows:

739 (i) For the first violation, a monetary penalty of
740 not less than Fifty Dollars (\$50.00) nor more than Five Hundred
741 Dollars (\$500.00) for each violation;

742 (ii) For the second violation and subsequent
743 violations, a monetary penalty of not less than One Hundred



744 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00)
745 for each violation.

746 Money collected by the board under Section 73-21-103,
747 paragraphs (1)(d)(i), (ii) and (iv) shall be deposited to the
748 credit of the State General Fund of the State Treasury;

749 (iii) The board may assess a monetary penalty for
750 those reasonable costs that are expended by the board in the
751 investigation and conduct of a proceeding for licensure
752 revocation, suspension or restriction, including but not limited
753 to the cost of process service, court reporters, expert witnesses
754 and investigators.

755 Money collected by the board under Section 73-21-103,
756 paragraph (1)(d)(iii), shall be deposited to the credit of the
757 Special Fund of the Pharmacy Board;

758 (iv) The board may impose a monetary penalty for
759 those facilities/businesses registered with the Pharmacy Board as
760 wholesalers/manufacturers of not less than One Hundred Dollars
761 (\$100.00) per violation and not more than Twenty-five Thousand
762 Dollars (\$25,000.00) per violation;

763 (e) Refusal to renew offender's license, registration
764 and/or permit;

765 (f) Placement of the offender on probation and
766 supervision by the board for a period to be determined by the
767 board;

768 (g) Public or private reprimand.

769 Whenever the board imposes any penalty under this subsection,
770 the board may require rehabilitation and/or additional education
771 as the board may deem proper under the circumstances, in addition
772 to the penalty imposed.

773 (2) Any person whose license, registration and/or permit has
774 been suspended, revoked or restricted pursuant to this chapter,
775 whether voluntarily or by action of the board, shall have the
776 right to petition the board at reasonable intervals for



777 reinstatement of such license, registration and/or permit. Such
778 petition shall be made in writing and in the form prescribed by
779 the board. Upon investigation and hearing, the board may, in its
780 discretion, grant or deny such petition, or it may modify its
781 original finding to reflect any circumstances which have changed
782 sufficiently to warrant such modifications. The procedure for the
783 reinstatement of a license, registration or permit that is
784 suspended for being out of compliance with an order for support,
785 as defined in Section 93-11-153, shall be governed by Section
786 93-11-157 or 93-11-163, as the case may be.

787 (3) Nothing herein shall be construed as barring criminal
788 prosecutions for violation of this chapter where such violations
789 are deemed as criminal offenses in other statutes of this state or
790 of the United States.

791 (4) A monetary penalty assessed and levied under this
792 section shall be paid to the board by the licensee, registrant or
793 permit holder upon the expiration of the period allowed for appeal
794 of such penalties under Section 73-21-101, or may be paid sooner
795 if the licensee, registrant or permit holder elects.

796 (5) When payment of a monetary penalty assessed and levied
797 by the board against a licensee, registrant or permit holder in
798 accordance with this section is not paid by the licensee,
799 registrant or permit holder when due under this section, the board
800 shall have the power to institute and maintain proceedings in its
801 name for enforcement of payment in the chancery court of the
802 county and judicial district of residence of the licensee,
803 registrant or permit holder, or if the licensee, registrant or
804 permit holder is a nonresident of the State of Mississippi, in the
805 Chancery Court of the First Judicial District of Hinds County,
806 Mississippi. When such proceedings are instituted, the board
807 shall certify the record of its proceedings, together with all
808 documents and evidence, to the chancery court and the matter shall
809 thereupon be heard in due course by the court, which shall review



810 the record and make its determination thereon. The hearing on the
811 matter may, in the discretion of the chancellor, be tried in
812 vacation.

813 (6) The board shall develop and implement a uniform penalty
814 policy which shall set the minimum and maximum penalty for any
815 given violation of board regulations and laws governing the
816 practice of pharmacy. The board shall adhere to its uniform
817 penalty policy except in such cases where the board specifically
818 finds, by majority vote, that a penalty in excess of, or less
819 than, the uniform penalty is appropriate. Such vote shall be
820 reflected in the minutes of the board and shall not be imposed
821 unless such appears as having been adopted by the board.

822 **SECTION 19.** Section 73-21-105, Mississippi Code of 1972, is
823 reenacted as follows:

824 73-21-105. (1) Every facility/business that shall engage in
825 the wholesale distribution of prescription drugs, to include
826 without limitation, manufacturing in this state, distribution into
827 this state, or selling or offering to sell in this state, or
828 distribution from or within this state, shall register biennially
829 with the Mississippi State Board of Pharmacy by applying for a
830 permit on a form supplied by the board and accompanied by a fee as
831 set by subsection (4) of this section. The Pharmacy Board shall
832 by regulation determine the classification of permit(s) that shall
833 be required.

834 (2) Every business/facility/pharmacy located in this state
835 that engages in or proposes to engage in the dispensing and
836 delivery of prescription drugs to consumers shall register with
837 the Mississippi State Board of Pharmacy by applying for a permit
838 on a form supplied by the board and accompanied by a fee as set by
839 subsection (4) of this section. The Pharmacy Board shall by
840 regulation determine the classification of permit(s) that shall be
841 required.



842 (3) The board shall establish by rule or regulation the
843 criteria which each business shall meet to qualify for a permit in
844 each classification. The board shall issue a permit to any
845 applicant who meets the criteria as established. The board may
846 issue various types of permits with varying restrictions to
847 businesses where the board deems it necessary by reason of the
848 type of activities conducted by the business requesting a permit.

849 (4) The board shall specify by rule or regulation the
850 registration procedures to be followed, including, but not limited
851 to, specification of forms for use in applying for such permits
852 and times, places and fees for filing such applications. However,
853 the biennial fee for an original or renewal permit shall not
854 exceed Three Hundred Dollars (\$300.00).

855 (5) Applications for permits shall include the following
856 information about the proposed business:

857 (a) Ownership;

858 (b) Location;

859 (c) Identity of the responsible person or pharmacist
860 licensed to practice in the state, who shall be the pharmacist in
861 charge of the pharmacy, where one is required by this chapter, and
862 such further information as the board may deem necessary.

863 (6) Permits issued by the board pursuant to this section
864 shall not be transferable or assignable.

865 (7) The board shall specify by rule or regulation minimum
866 standards for the responsibility in the conduct of any
867 business/facility and/or pharmacy that has been issued a permit.
868 The board is specifically authorized to require that the portion
869 of the facility located in this state to which a pharmacy permit
870 applies be operated only under the direct supervision of no less
871 than one (1) pharmacist licensed to practice in this state, and to
872 provide such other special requirements as deemed necessary.
873 Nothing in this subsection shall be construed to prevent any
874 person from owning a pharmacy.



875 (8) All businesses permitted by the board shall report to
876 the board the occurrence of any of the following changes:

877 (a) Permanent closing;

878 (b) Change of ownership, management, location or
879 pharmacist in charge;

880 (c) Any and all other matters and occurrences as the
881 board may require by rule or regulation.

882 (9) Disasters, accidents and emergencies which may affect
883 the strength, purity or labeling of drugs, medications, devices or
884 other materials used in the diagnosis or the treatment of injury,
885 illness and disease shall be immediately reported to the board.

886 (10) No business that is required to obtain a permit shall
887 be operated until a permit has been issued for such business by
888 the board. Any person, firm or corporation violating any of the
889 provisions of this section shall be guilty of a misdemeanor and,
890 upon conviction thereof, shall be punished by a fine of not less
891 than One Hundred Dollars (\$100.00) nor more than One Thousand
892 Dollars (\$1,000.00), or imprisonment in the county jail for not
893 less than thirty (30) days nor more than ninety (90) days, or by
894 both such fine and imprisonment. However, the provisions of this
895 chapter shall not apply to physicians, dentists, veterinarians,
896 osteopaths or other practitioners of the healing arts who are
897 licensed under the laws of the State of Mississippi and are
898 authorized to dispense and administer prescription drugs in the
899 course of their professional practice.

900 **SECTION 20.** Section 73-21-106, Mississippi Code of 1972, is
901 reenacted as follows:

902 73-21-106. (1) Any pharmacy located outside this state that
903 ships, mails or delivers, in any manner, controlled substances,
904 prescription or legend drugs or devices into this state shall be
905 considered a nonresident pharmacy, shall be registered with the
906 board, and shall disclose to the board all of the following:



907 (a) The location, names, and titles of all principal
908 corporate officers and all pharmacists-in-charge. A report
909 containing this information shall be made on a biennial basis and
910 within thirty (30) days after any change of office, corporate
911 officer or pharmacist-in-charge;

912 (b) That it complies with all lawful directions and
913 requests for information from the regulatory or licensing agency
914 of the state in which it is licensed as well as with all requests
915 for information made by the board pursuant to this section. The
916 nonresident pharmacy shall maintain at all times a valid unexpired
917 license, permit or registration to conduct the pharmacy in
918 compliance with the laws of the state in which it is a resident.
919 As a prerequisite to registering with the board, the nonresident
920 pharmacy shall submit a copy of the most recent inspection report
921 resulting from an inspection conducted by the regulatory or
922 licensing agency of the state in which it is located; and

923 (c) That it maintains its records of controlled
924 substances, or prescription or legend drugs or devices dispensed
925 to patients in this state so that the records are readily
926 retrievable from the records of other drugs dispensed.

927 (2) Any pharmacy subject to this section shall provide
928 during its regular hours of operation, but not less than six (6)
929 days per week and for a minimum of forty (40) hours per week, a
930 toll-free telephone service to facilitate communication between
931 patients in this state and a pharmacist at the pharmacy who has
932 access to the patient's records. This toll-free number shall be
933 disclosed on a label affixed to each container of drugs dispensed
934 to patients in this state.

935 (3) The registration fee for nonresident pharmacies shall be
936 the same as the fee as set by subsection (4) of Section 73-21-105.

937 (4) The registration requirements of this section shall
938 apply only to a nonresident pharmacy that only ships, mails or



939 delivers controlled substances, prescription or legend drugs and
940 devices into this state pursuant to a prescription.

941 (5) The board may deny, revoke or suspend a nonresident
942 pharmacy registration only for:

943 (a) Failure to comply with any requirement of this
944 section; or

945 (b) Conduct that causes serious bodily or serious
946 psychological injury to a resident of this state if the board has
947 referred the matter to the regulatory or licensing agency in the
948 state in which the pharmacy is located and the regulatory or
949 licensing agency fails to initiate an investigation within
950 forty-five (45) days of the referral.

951 (6) It is unlawful for any nonresident pharmacy that is not
952 registered pursuant to this section to advertise its services in
953 this state, or for any person who is a resident of this state to
954 advertise the pharmacy services of a nonresident pharmacy that has
955 not registered with the board, with the knowledge that the
956 advertisement will or is likely to induce members of the public in
957 this state to use the pharmacy to fill prescriptions.

958 (7) When requested to do so by the board, each nonresident
959 pharmacy shall supply any inspection reports, controlled
960 substances dispensing records, warning notices, notice of
961 deficiency reports or any other related reports from the state in
962 which it is located concerning the operation of a nonresident
963 pharmacy for review of compliance with state and federal drug
964 laws.

965 **SECTION 21.** Section 73-21-107, Mississippi Code of 1972, is
966 reenacted as follows:

967 73-21-107. (1) The board or its representative may enter
968 and inspect, during reasonable hours, a facility which has
969 obtained or applied for a permit under Section 73-21-105 relative
970 to the following:

971 (a) Drug storage and security;



972 (b) Equipment;
973 (c) Sanitary conditions; or
974 (d) Records, reports, or other documents required to be
975 kept or made under this chapter or the Uniform Controlled
976 Substances Law (Section 41-29-101 et seq.) or rules and
977 regulations adopted under such laws.

978 (2) Prior to an entry and inspection, the board
979 representative shall state his purpose and present appropriate
980 credentials to the owner, pharmacist or agent in charge of a
981 facility.

982 (3) The board representative may:

983 (a) Inspect and copy records, reports, and other
984 documents required to be kept or made under this chapter, the
985 Uniform Controlled Substances Law, or rules and regulations
986 adopted under such laws;

987 (b) Inspect, within reasonable limits and in a
988 reasonable manner, a facility's storage, equipment, security,
989 records, or prescription drugs or devices; or

990 (c) Inventory any stock of any prescription drugs or
991 devices in the facility.

992 (4) Unless the owner, pharmacist, or agent in charge of the
993 facility consents in writing, an inspection authorized by this
994 section may not extend to:

995 (a) Financial data;

996 (b) Sales data other than shipment data; or

997 (c) Pricing data.

998 **SECTION 22.** Section 73-21-109, Mississippi Code of 1972, is
999 reenacted as follows:

1000 73-21-109. No person shall make use of the terms
1001 "drugstore," "pharmacy," "apothecary" or words of similar meaning
1002 which indicate that pharmaceutical services are performed in any
1003 sign, letterhead or advertisement unless such person is a permit
1004 holder as provided in Section 73-21-105. Any person violating



1005 this section shall be guilty of a misdemeanor and, upon conviction
1006 thereof, shall be punished by a fine of not less than One Hundred
1007 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),
1008 or by imprisonment in the county jail for not less than thirty
1009 (30) days nor more than ninety (90) days, or by both.

1010 **SECTION 23.** Section 73-21-111, Mississippi Code of 1972, is
1011 reenacted and amended as follows:

1012 73-21-111. (1) The board shall make, adopt, amend and
1013 repeal from time to time such rules and regulations for the
1014 regulation of supportive personnel as may be deemed necessary by
1015 the board.

1016 (2) Every person who acts or serves as a pharmacy technician
1017 in a pharmacy that is located in this state and permitted by the
1018 board shall obtain a registration from the board. To obtain a
1019 pharmacy technician registration the applicant must:

1020 (a) Have submitted a written application on a form(s)
1021 prescribed by the board; and

1022 (b) Be of good moral character; and

1023 (c) Have paid the initial registration fee not to
1024 exceed One Hundred Dollars (\$100.00).

1025 (3) Each pharmacy technician shall renew his or her
1026 registration annually. To renew his or her registration, a
1027 technician must:

1028 (a) Submit an application on a form prescribed by the
1029 board; and

1030 (b) Pay a renewal fee not to exceed One Hundred Dollars
1031 (\$100.00) for each annual registration period. The board may add
1032 a surcharge of not more than Five Dollars (\$5.00) to the
1033 registration renewal fee to assist in funding a program that
1034 assists impaired pharmacists, pharmacy students and pharmacy
1035 technicians.

1036 **SECTION 24.** Section 73-21-113, Mississippi Code of 1972, is
1037 reenacted as follows:



1038 73-21-113. All fees received by the board from examinations,
1039 licenses, permits and monetary penalties, and any other funds
1040 received by the board, shall be paid to the State Treasurer, who
1041 shall issue receipts therefor and deposit such funds in the State
1042 Treasury in a special fund to the credit of the board. All such
1043 funds shall be expended only pursuant to appropriation approved by
1044 the Legislature and as provided by law.

1045 **SECTION 25.** Section 73-21-115, Mississippi Code of 1972, is
1046 reenacted as follows:

1047 73-21-115. (1) Every prescription written in this state by
1048 a person authorized to issue such prescription shall be on
1049 prescription forms containing two (2) lines for the prescriber's
1050 signature. There shall be a signature line in the lower
1051 right-hand corner of the prescription form beneath which shall be
1052 clearly imprinted the words "substitution permissible." There
1053 shall be a signature line in the lower left-hand corner of the
1054 prescription form beneath which shall be clearly imprinted the
1055 words "dispense as written." The prescriber's signature on either
1056 signature line shall validate the prescription and shall designate
1057 approval or disapproval of product selection.

1058 (2) If a prescription form which does not contain the two
1059 (2) signature lines required in subsection (1) of this section is
1060 utilized by the prescriber, he shall write in his own handwriting
1061 the words "dispense as written" thereupon to prevent product
1062 selection.

1063 (3) A pharmacist licensed by the Mississippi State Board of
1064 Pharmacy may dispense a one-time emergency dispensing of a
1065 prescription of up to a seventy-two-hour supply of a prescribed
1066 medication in the event the pharmacist is unable to contact the
1067 prescriber to obtain refill authorization, provided that:

1068 (a) The prescription is not for a controlled substance;



1069 (b) In the pharmacist's professional judgment, the
1070 interruption of therapy might reasonably produce undesirable
1071 health consequences or may cause physical or mental discomfort;

1072 (c) The dispensing pharmacist notifies the prescriber
1073 or his agent of the emergency dispensing within seven (7) working
1074 days after the one-time emergency dispensing;

1075 (d) The pharmacist properly records the dispensing as a
1076 separate nonrefillable prescription. Said document shall be filed
1077 as is required of all other prescription records. This document
1078 shall be serially numbered and contain all information required of
1079 other prescriptions. In addition it shall contain the number of
1080 the prescription from which it was refilled; and

1081 (e) The pharmacist shall record on the new document the
1082 circumstances which warrant this emergency dispensing.

1083 This emergency dispensing shall be done only in the permitted
1084 facility which contains the nonrefillable prescription.

1085 **SECTION 26.** Section 73-21-117, Mississippi Code of 1972, is
1086 reenacted as follows:

1087 73-21-117. (1) A pharmacist may select a generic equivalent
1088 drug product only when such selection results in lower cost to the
1089 purchaser, unless product selection is expressly prohibited by the
1090 prescriber.

1091 (2) A pharmacist shall select a generic equivalent drug
1092 product when:

1093 (a) The purchaser requests the selection of a generic
1094 equivalent drug product;

1095 (b) The prescriber has not expressly prohibited product
1096 selection; and

1097 (c) Product selection will result in lower cost to the
1098 purchaser.

1099 Before product selection is made, the pharmacist shall advise
1100 the purchaser of his prerogatives under this subsection.



1101 (3) When requested by the purchaser to dispense the drug
1102 product as ordered by the prescriber, a pharmacist shall not
1103 select a generic equivalent drug product.

1104 **SECTION 27.** Section 73-21-119, Mississippi Code of 1972, is
1105 reenacted as follows:

1106 73-21-119. (1) The label of the container of any drug
1107 product which is sold within the State of Mississippi for resale
1108 at retail and which requires a prescription to be dispensed at
1109 retail shall contain at a minimum the name of the manufacturer of
1110 the final dosage unit, expiration date if applicable, batch or lot
1111 number and national drug code.

1112 (2) Whenever product selection is made, the pharmacist shall
1113 indicate on the label of the dispensed container the initials
1114 "G.E." and the proprietary name of the product dispensed or the
1115 generic name of the product dispensed and its manufacturer either
1116 written in full or appropriately abbreviated, unless the
1117 prescriber indicates that the name of the drug product shall not
1118 appear on the label.

1119 **SECTION 28.** Section 73-21-121, Mississippi Code of 1972, is
1120 reenacted as follows:

1121 73-21-121. (1) Product selection as authorized by Sections
1122 73-21-115 through 73-21-119 shall not constitute evidence of
1123 negligence by the dispensing pharmacist when such product
1124 selection is in accordance with reasonable and prudent pharmacy
1125 practice. No prescriber shall be liable for civil damages or in
1126 any criminal prosecution arising from the incorrect product
1127 selection by a pharmacist.

1128 (2) Any person having knowledge relating to a pharmacist or
1129 to a pharmacy student which might provide grounds for disciplinary
1130 action by the board may report relevant facts to the board, and
1131 shall by reason of reporting such facts in good faith be immune
1132 from civil liability.



1133 (3) Any person furnishing information in the form of data,
1134 reports or records to the board or to a pharmacist organization
1135 approved by the board to receive such information, where such
1136 information is furnished for the purpose of aiding a pharmacist or
1137 a pharmacy student impaired by chemical abuse or by mental or by
1138 physical illness, shall by reason of furnishing such information
1139 in good faith be immune from civil liability.

1140 (4) The records of the board or the records of a pharmacist
1141 organization approved by the board to aid pharmacists or pharmacy
1142 students impaired by chemical abuse, where such records relate to
1143 the impairment, shall be confidential and are not considered open
1144 records; provided, however, the board may disclose this
1145 confidential information only:

1146 (a) In a disciplinary hearing before the board, or in
1147 an appeal of an action or order of the board;

1148 (b) To the pharmacist licensing or disciplinary
1149 authorities of other jurisdictions in the case of a pharmacist who
1150 is licensed in, or seeking transfer to, another state; or

1151 (c) Pursuant to an order of a court of competent
1152 jurisdiction.

1153 **SECTION 29.** Section 73-21-123, Mississippi Code of 1972, is
1154 reenacted as follows:

1155 73-21-123. Nothing in this chapter shall be construed to
1156 prevent, or in any manner interfere with, or to require a permit
1157 for the sale of nonnarcotic nonprescription drugs which may be
1158 lawfully sold under the United States Food, Drug and Cosmetic Act
1159 (21 USCS 301 et seq. as now or hereafter amended) without a
1160 prescription, nor shall any rule or regulation be adopted by the
1161 board under the provisions of this chapter which shall require the
1162 sale of nonprescription drugs by a licensed pharmacist of in a
1163 pharmacy or otherwise apply to or interfere with the sale or
1164 distribution of such drugs.



1165 **SECTION 30.** This act shall take effect and be in force from
1166 and after July 1, 2002.

