

By: Representative Ford

To: Public Health and Welfare

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; AND FOR RELATED PURPOSES.

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

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

10 73-21-69. Sections 73-21-71 through 73-21-123, which create  
11 the State Board of Pharmacy and prescribe its duties and powers,  
12 shall stand repealed on July 1, 2003.

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

15 73-21-71. This chapter shall be known as the "Mississippi  
16 Pharmacy Practice Act."

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

19 73-21-73. As used in this chapter, unless the context  
20 requires otherwise:

21 (a) "Administer" shall mean the direct application of a  
22 prescription drug pursuant to a lawful order of a practitioner to  
23 the body of a patient by injection, inhalation, ingestion or any  
24 other means.

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

27 (c) "Compounding" means (i) the production,  
28 preparation, propagation, conversion or processing of a sterile or  
29 nonsterile drug or device either directly or indirectly by



30 extraction from substances of natural origin or independently by  
31 means of chemical or biological synthesis or from bulk chemicals  
32 or the preparation, mixing, measuring, assembling, packaging or  
33 labeling of a drug or device as a result of a practitioner's  
34 prescription drug order or initiative based on the  
35 practitioner/patient/pharmacist relationship in the course of  
36 professional practice, or (ii) for the purpose of, as an incident  
37 to, research, teaching or chemical analysis and not for sale or  
38 dispensing. Compounding also includes the preparation of drugs or  
39 devices in anticipation of prescription drug orders based on  
40 routine regularly observed prescribing patterns.

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

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

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

53 (g) "Dispense" or "dispensing" shall mean the  
54 interpretation of a valid prescription, order of a practitioner by  
55 a pharmacist and the subsequent preparation of the drug or device  
56 for administration to or use by a patient or other individual  
57 entitled to receive the drug.

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

61 (i) "Drug" shall mean:



62 (i) Articles recognized as drugs in the official  
63 United States Pharmacopeia, official National Formulary, official  
64 Homeopathic Pharmacopeia, other drug compendium or any supplement  
65 to any of them;

66 (ii) Articles intended for use in the diagnosis,  
67 cure, mitigation, treatment or prevention of disease in man or  
68 other animals;

69 (iii) Articles other than food intended to affect  
70 the structure or any function of the body of man or other animals;  
71 and

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

75 (j) "Drugroom" shall mean a business, which does not  
76 require the services of a pharmacist, where prescription drugs or  
77 prescription devices are bought, sold, maintained or provided to  
78 consumers.

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

83 (l) "Foreign pharmacy graduate" shall mean a person  
84 whose undergraduate pharmacy degree was conferred by a recognized  
85 school of pharmacy outside of the United States, the District of  
86 Columbia and Puerto Rico. Recognized schools of pharmacy are  
87 those colleges and universities listed in the World Health  
88 Organization's World Directory of Schools of Pharmacy, or  
89 otherwise approved by the Foreign Pharmacy Graduate Examination  
90 Committee (FPGEC) certification program as established by the  
91 National Association of Boards of Pharmacy.

92 (m) "Generic equivalent drug product" shall mean a drug  
93 product which (i) contains the identical active chemical  
94 ingredient of the same strength, quantity and dosage form; (ii) is



95 of the same generic drug name as determined by the United States  
96 Adoptive Names and accepted by the United States Food and Drug  
97 Administration; and (iii) conforms to such rules and regulations  
98 as may be adopted by the board for the protection of the public to  
99 assure that such drug product is therapeutically equivalent.

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

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

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

109 (q) "Manufacturer" shall mean a person, business or  
110 other entity engaged in the production, preparation, propagation,  
111 conversion or processing of a prescription drug or device, if such  
112 actions are associated with promotion and marketing of such drugs  
113 or devices.

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

119 (s) "Manufacturing" of prescription products shall mean  
120 the production, preparation, propagation, conversion or processing  
121 of a drug or device, either directly or indirectly, by extraction  
122 from substances from natural origin or independently by means of  
123 chemical or biological synthesis, or from bulk chemicals and  
124 includes any packaging or repackaging of the substance(s) or  
125 labeling or relabeling of its container, if such actions are  
126 associated with promotion and marketing of such drug or devices.



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

131           (u) "Nonprescription drugs" shall mean nonnarcotic  
132 medicines or drugs that may be sold without a prescription and are  
133 prepackaged and labeled for use by the consumer in accordance with  
134 the requirements of the statutes and regulations of this state and  
135 the federal government.

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

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

142           (x) "Pharmacy" shall mean any location for which a  
143 pharmacy permit is required and in which prescription drugs are  
144 maintained, compounded and dispensed for patients by a pharmacist.  
145 This definition includes any location where pharmacy-related  
146 services are provided by a pharmacist.

147           (y) "Prepackaging" shall mean the act of placing small  
148 precounted quantities of drug products in containers suitable for  
149 dispensing or administering in anticipation of prescriptions or  
150 orders.

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

154           (aa) "Practice of pharmacy" shall mean a health care  
155 service that includes, but is not limited to, the compounding,  
156 dispensing, and labeling of drugs or devices; interpreting and  
157 evaluating prescriptions; administering and distributing drugs and  
158 devices; the compounding, dispensing and labeling of drugs and  
159 devices; maintaining prescription drug records; advising and



160 consulting concerning therapeutic values, content, hazards and  
161 uses of drugs and devices; initiating or modifying of drug therapy  
162 in accordance with written guidelines or protocols previously  
163 established and approved by the board; selecting drugs;  
164 participating in drug utilization reviews; storing prescription  
165 drugs and devices; ordering lab work in accordance with written  
166 guidelines or protocols as defined by paragraph (jj) of this  
167 section; providing pharmacotherapeutic consultations; supervising  
168 supportive personnel and such other acts, services, operations or  
169 transactions necessary or incidental to the conduct of the  
170 foregoing.

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

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

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

180 (i) "Caution: Federal law prohibits dispensing  
181 without prescription," or

182 (ii) "Caution: Federal law restricts this drug to  
183 use by or on the order of a licensed veterinarian"; or a drug  
184 which is required by any applicable federal or state law or  
185 regulation to be dispensed on prescription only or is restricted  
186 to use by practitioners only.

187 (ee) "Product selection" shall mean the dispensing of a  
188 generic equivalent drug product in lieu of the drug product  
189 ordered by the prescriber.

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



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

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

201 (ii) "Supportive personnel" or "pharmacist technician"  
202 shall mean those individuals utilized in pharmacies whose  
203 responsibilities are to provide nonjudgmental technical services  
204 concerned with the preparation and distribution of drugs under the  
205 direct supervision and responsibility of a pharmacist.

206 (jj) "Written guideline or protocol" shall mean an  
207 agreement in which any practitioner authorized to prescribe drugs  
208 delegates to a pharmacist authority to conduct specific  
209 prescribing functions in an institutional setting, or with  
210 individual patients, provided that a specific protocol agreement  
211 is signed on each patient and is filed as required by law or by  
212 rule or regulation of the board.

213 (kk) "Wholesaler" shall mean a person who buys or  
214 otherwise acquires prescription drugs or prescription devices for  
215 resale or distribution, or for repackaging for resale or  
216 distribution, to persons other than consumers.

217 **SECTION 4.** Section 73-21-75, Mississippi Code of 1972, is  
218 reenacted as follows:

219 73-21-75. (1) The State Board of Pharmacy created by former  
220 Section 73-21-9 is hereby continued and reconstituted as follows:  
221 The board shall consist of seven (7) appointed members. At least  
222 one (1) appointment shall be made from each congressional  
223 district. Each appointed member of the board shall be appointed  
224 by the Governor, with the advice and consent of the Senate, from a  
225 list of five (5) names submitted by the Mississippi State



226 Pharmaceutical Association/Mississippi Pharmacists Association.  
227 Of the members appointed, one (1) shall, at the time of  
228 appointment, have had five (5) years' experience as a pharmacist  
229 at a facility holding an institutional permit, and one (1) shall,  
230 at the time of appointment, have had five (5) years' experience as  
231 a pharmacist at a facility holding a retail permit. Any person  
232 appointed to the board shall be limited to two (2) full terms of  
233 office during any fifteen-year period, including any member  
234 serving on May 14, 1992.

235 (2) The members of the board appointed and serving prior to  
236 July 1, 1983, whose terms have not expired by July 1, 1983, shall  
237 serve the balance of their terms as members of the reconstituted  
238 board, and they shall be considered to be from the same  
239 congressional districts from which they were originally appointed  
240 if they still reside therein, even if the district boundaries have  
241 changed subsequent to their original appointments. The Governor  
242 shall appoint the remaining members of the reconstituted board in  
243 the manner prescribed in subsection (1) of this section on July 1,  
244 1983. The initial members of the reconstituted board shall serve  
245 terms of office as follows:

246 (a) The term of the member from the First Congressional  
247 District shall expire on July 1, 1984; and from and after July 1,  
248 1996, this appointment shall be designated as Post 1.

249 (b) The term of the member from the Second  
250 Congressional District shall expire on July 1, 1988; and from and  
251 after July 1, 1996, this appointment shall be designated as Post  
252 2.

253 (c) The term of the member from the Third Congressional  
254 District shall expire on July 1, 1986; and from and after July 1,  
255 1996, this appointment shall be designated as Post 3.

256 (d) The term of the member from the Fourth  
257 Congressional District shall expire on July 1, 1985; and from and





258 after July 1, 1996, this appointment shall be designated as Post  
259 4.

260 (e) The term of the member from the Fifth Congressional  
261 District shall expire on July 1, 1987; and from and after July 1,  
262 1996, this appointment shall be designated as Post 5.

263 (f) The term of one (1) of the members from the state  
264 at large shall expire on July 1, 1985; and from and after July 1,  
265 1996, this appointment shall be designated as Post 6.

266 (g) The term of the other member from the state at  
267 large shall expire on July 1, 1988; and from and after July 1,  
268 1996, this appointment shall be designated as Post 7.

269 (3) At the expiration of a term, members of the board shall  
270 be appointed in the manner prescribed in subsection (1) of this  
271 section for terms of five (5) years from the expiration date of  
272 the previous terms. Any vacancy on the board prior to the  
273 expiration of a term for any reason, including resignation,  
274 removal, disqualification, death or disability, shall be filled by  
275 appointment of the Governor in the manner prescribed in subsection  
276 (1) of this section for the balance of the unexpired term. The  
277 Mississippi State Pharmaceutical Association/Mississippi  
278 Pharmacists Association shall submit a list of nominees no more  
279 than thirty (30) days after a vacancy occurs, and the Governor  
280 shall fill such vacancies within ninety (90) days after each such  
281 vacancy occurs.

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

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

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

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



290 (d) Be actively engaged full time in the practice of  
291 pharmacy in Mississippi.

292 (5) The Governor may remove any or all members of the board  
293 on proof of unprofessional conduct, continued absence from the  
294 state, or for failure to perform the duties of his office. Any  
295 member who shall not attend two (2) consecutive meetings of the  
296 board for any reason other than illness of such member shall be  
297 subject to removal by the Governor. The president of the board  
298 shall notify the Governor in writing when any such member has  
299 failed to attend two (2) consecutive regular meetings. No removal  
300 shall be made without first giving the accused an opportunity to  
301 be heard in refutation of the charges made against him, and he  
302 shall be entitled to receive a copy of the charges at the time of  
303 filing.

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

306 73-21-77. (1) Each person appointed as a member of the  
307 board shall qualify by taking the oath prescribed by the  
308 Constitution for the state officers, and shall file certificate  
309 thereof in the Office of the Secretary of State within fifteen  
310 (15) days after his appointment.

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

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

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



321 (5) A majority of the members of the board shall constitute  
322 a quorum for the conduct of the meeting and all actions of the  
323 board shall be by a majority.

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

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

331 73-21-79. (1) The board shall employ an executive director  
332 of the board. The executive director shall be a citizen of  
333 Mississippi and a pharmacist licensed and in good standing to  
334 practice pharmacy in the State of Mississippi, who has had five  
335 (5) years' experience as a pharmacist.

336 (2) The executive director shall receive a salary to be set  
337 by the board, subject to the approval of the State Personnel  
338 Board, and shall be entitled to necessary expenses incurred in the  
339 performance of his official duties. He shall devote full time to  
340 the duties of his office and shall not be interested directly or  
341 indirectly as defined in Section 73-21-73 in the operation of a  
342 pharmacy in Mississippi or any other facility permitted by the  
343 board or engaged in any other business that will interfere with  
344 the duties of his office.

345 (3) The duties and responsibilities of the executive  
346 director shall be defined by rules and regulations prescribed by  
347 the board.

348 (4) The board may, in its discretion, employ persons in  
349 addition to the executive director in such other positions or  
350 capacities as it deems necessary to the proper conduct of board  
351 business. Any pharmacist-investigator employed by the board may  
352 have other part-time employment, provided that he shall not accept  
353 any employment that would cause a conflict of interest in his



354 pharmacist-investigator duties. The board may employ legal  
355 counsel to assist in the conduct of its business.

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

358 73-21-81. The responsibility for the enforcement of the  
359 provisions of this chapter shall be vested in the board. The  
360 board shall have all of the duties, powers and authority  
361 specifically granted by and necessary to the enforcement of this  
362 chapter. The board may make, adopt, amend and repeal such rules  
363 and regulations as may be deemed necessary by the board from time  
364 to time for the proper administration and enforcement of this  
365 chapter, in accordance with the provisions of the Mississippi  
366 Administrative Procedures Law (Section 25-43-1 et seq.).

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

369 73-21-83. (1) The board shall be responsible for the  
370 control and regulation of the practice of pharmacy, to include the  
371 regulation of pharmacy externs or interns and pharmacist  
372 technicians, in this state, the regulation of the wholesaler  
373 distribution of drugs and devices as defined in Section 73-21-73,  
374 and the distribution of sample drugs or devices by manufacturer's  
375 distributors as defined in Section 73-21-73 by persons other than  
376 the original manufacturer or distributor in this state.

377 (2) A license for the practice of pharmacy shall be obtained  
378 by all persons prior to their engaging in the practice of  
379 pharmacy. However, the provisions of this chapter shall not apply  
380 to physicians, dentists, veterinarians, osteopaths or other  
381 practitioners of the healing arts who are licensed under the laws  
382 of the State of Mississippi and are authorized to dispense and  
383 administer prescription drugs in the course of their professional  
384 practice.

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



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

395 (5) All persons licensed to practice pharmacy prior to July  
396 1, 1991, by the State Board of Pharmacy under Section 73-21-89  
397 shall continue to be licensed under the provisions of Section  
398 73-21-91.

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

401 73-21-85. (1) To obtain a license to engage in the practice  
402 of pharmacy by examination, or by score transfer, the applicant  
403 shall:

404 (a) Have submitted a written application on the form  
405 prescribed by the board;

406 (b) Be of good moral character;

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

410 (d) Have successfully passed an examination approved by  
411 the board;

412 (e) Have paid all fees specified by the board for  
413 examination, not to exceed the cost to the board of administering  
414 the examination;

415 (f) Have paid all fees specified by the board for  
416 licensure; and

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



419           (2) To obtain a license to engage in the practice of  
420 pharmacy, a foreign pharmacy graduate applicant shall obtain the  
421 National Association of Boards of Pharmacy's Foreign Pharmacy  
422 Graduate Examination Committee's certification, which shall  
423 include, but not be limited to, successfully passing the Foreign  
424 Pharmacy Graduate Equivalency Examination and attaining a total  
425 score of at least five hundred fifty (550) on the Test of English  
426 as a Foreign Language (TOEFL), and shall:

427           (a) Have submitted a written application on the form  
428 prescribed by the board;

429           (b) Be of good moral character;

430           (c) Have graduated and been granted a pharmacy degree  
431 from a college or school of pharmacy recognized and approved by  
432 the National Association of Boards of Pharmacy's Foreign Pharmacy  
433 Graduate Examination Committee;

434           (d) Have paid all fees specified by the board for  
435 examination, not to exceed the cost to the board of administering  
436 the examination;

437           (e) Have successfully passed an examination approved by  
438 the board;

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

441           (g) Have paid all fees specified by the board for  
442 licensure.

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

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

448           73-21-87. (1) To obtain a license to engage in the practice  
449 of pharmacy by reciprocity or license transfer, the applicant  
450 shall:



451 (a) Have submitted a written application on the form  
452 prescribed by the board;

453 (b) Be of good moral character;

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

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

462 (e) Have paid all fees specified by the board for  
463 licensure.

464 (2) No applicant shall be eligible for licensure by  
465 reciprocity or license transfer or unless the state in which the  
466 applicant was initially licensed also grants a reciprocal license  
467 or transfer license to pharmacists licensed by this state under  
468 like circumstances and conditions.

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

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

474 73-21-89. (1) The board shall issue a license to practice  
475 pharmacy to any person, if such person be otherwise qualified,  
476 upon presentation to the board of:

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

479 (b) Written application for licensure; and

480 (c) Payment of all fees specified by the board for  
481 licensure.

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



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

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

489 73-21-91. (1) Every pharmacist shall renew his license  
490 biennially. To renew his license, a pharmacist shall:

491 (a) Submit an application for renewal on the form  
492 prescribed by the board;

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

497 (c) Pay such renewal fees as required by the board, not  
498 to exceed Two Hundred Dollars (\$200.00) for each biennial  
499 licensing period, provided that the board may add a surcharge of  
500 not more than Five Dollars (\$5.00) to a license renewal fee to  
501 fund a program to aid impaired pharmacists or pharmacy students.  
502 Any pharmacist license renewal received postmarked after December  
503 31 of the renewal period will be returned and a Fifty Dollar  
504 (\$50.00) late renewal fee will be assessed prior to renewal.

505 (2) Any pharmacist who has defaulted in license renewal may  
506 be reinstated within two (2) years upon payment of renewal fees in  
507 arrears and presentation of evidence of the required continuing  
508 education. Any pharmacist defaulting in license renewal for a  
509 period in excess of two (2) years shall be required to  
510 successfully complete the examination given by the board pursuant  
511 to Section 73-21-85 before being eligible for reinstatement as a  
512 pharmacist in Mississippi, or shall be required to appear before  
513 the board to be examined for his competence and knowledge of the  
514 practice of pharmacy, and may be required to submit evidence of  
515 continuing education. If such person is found fit by the board to  
516 practice pharmacy in this state, the board may reinstate his





517 license to practice pharmacy upon payment of all renewal fees in  
518 arrears.

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

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

524 73-21-93. (1) The examination for licensure required under  
525 Section 73-21-85 shall be given by the board at least once during  
526 each year. The board shall determine the content and subject  
527 matter of each examination, the place, time and date of the  
528 administration of the examination and those persons who have  
529 successfully passed the examination.

530 (2) The examination shall be prepared to measure the  
531 competence of the applicant to engage in the practice of pharmacy.  
532 The board may employ and cooperate with any organization or  
533 consultant in the preparation and grading of an appropriate  
534 examination, but shall retain the sole discretion and  
535 responsibility of determining which applicants have successfully  
536 passed such an examination.

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

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

542 73-21-95. The assistant pharmacist license is hereby  
543 abolished after April 30, 1984. The board shall issue a license  
544 to practice pharmacy to those persons presently holding an  
545 assistant pharmacist license upon their meeting the requirements  
546 of Section 73-21-91.

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



549           73-21-97. (1) The board may refuse to issue or renew, or  
550 may suspend, reprimand, revoke or restrict the license,  
551 registration or permit of any person upon one or more of the  
552 following grounds:

553           (a) Unprofessional conduct as defined by the rules and  
554 regulations of the board;

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

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

560           (i) A felony;

561           (ii) Any act involving moral turpitude or gross  
562 immorality; or

563           (iii) Violation of pharmacy or drug laws of this  
564 state or rules or regulations pertaining thereto, or of statutes,  
565 rules or regulations of any other state or the federal government;

566           (d) Fraud or intentional misrepresentation by a  
567 licensee or permit holder in securing the issuance or renewal of a  
568 license or permit;

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

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

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

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

576           (i) Addiction to or dependence on alcohol or controlled  
577 substances or the unauthorized use or possession of controlled  
578 substances;

579           (j) Misappropriation of any prescription drug;



580           (k) Being found guilty by the licensing agency in  
581 another state of violating the statutes, rules or regulations of  
582 that jurisdiction; or

583           (1) The unlawful or unauthorized possession of a  
584 controlled substance.

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

588           (3) In addition to the grounds specified in subsection (1)  
589 of this section, the board shall be authorized to suspend the  
590 license, registration or permit of any person for being out of  
591 compliance with an order for support, as defined in Section  
592 93-11-153. The procedure for suspension of a license,  
593 registration or permit for being out of compliance with an order  
594 for support, and the procedure for the reissuance or reinstatement  
595 of a license, registration or permit suspended for that purpose,  
596 and the payment of any fees for the reissuance or reinstatement of  
597 a license, registration or permit suspended for that purpose,  
598 shall be governed by Section 93-11-157 or 93-11-163, as the case  
599 may be. If there is any conflict between any provision of Section  
600 93-11-157 or 93-11-163 and any provision of this chapter, the  
601 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
602 shall control.

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

605           73-21-99. (1) Disciplinary action by the board against a  
606 licensee, registrant or permit holder, or license, registration or  
607 permit shall require the following:

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

611           (b) An order of the Investigations Review Committee of  
612 the board which shall cause the executive director of the board to



613 fix a time and place for a hearing by the board. The executive  
614 director shall cause a written notice specifying the offense or  
615 offenses for which the licensee or permit holder is charged and  
616 notice of the time and place of the hearing to be served upon the  
617 licensee or permit holder at least thirty (30) days prior to the  
618 hearing date. Such notice may be served by mailing a copy thereof  
619 by certified mail, postage prepaid, to the last known residence or  
620 business address of the licensee or permit holder.

621 (2) The board shall designate two (2) of its members to  
622 serve on a rotating no longer than three-consecutive-month basis  
623 with the executive director and legal counsel for the board as an  
624 Investigations Review Committee, and the board's investigators  
625 shall provide status reports solely to the Investigations Review  
626 Committee during monthly meetings of the board. Such reports  
627 shall be made on all on-going investigations, and shall apply to  
628 any routine inspections which may give rise to the filing of a  
629 complaint. In the event any complaint on a licensee comes before  
630 the board for possible disciplinary action, the members of the  
631 board serving on the Investigations Review Committee which  
632 reviewed the investigation of such complaint shall recuse  
633 themselves and not participate in the disciplinary proceeding.

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

638 (4) The board, acting by and through its executive director,  
639 is hereby authorized and empowered to issue subpoenas for the  
640 attendance of witnesses and the production of books and papers at  
641 such hearing. Process issued by the board shall extend to all  
642 parts of the state and shall be served by any person designated by  
643 the board for such service.

644 (5) The accused shall have the right to appear either  
645 personally or by counsel or both to produce witnesses or evidence



646 in his behalf, to cross-examine witnesses and to have subpoenas  
647 issued by the board.

648 (6) At the hearing, the board shall administer oaths as may  
649 be necessary for the proper conduct of the hearing. All hearings  
650 shall be conducted by the board, which shall not be bound by  
651 strict rules of procedure or by the laws of evidence in the  
652 conduct of its proceedings, but the determination shall be based  
653 upon sufficient evidence to sustain it.

654 (7) Where, in any proceeding before the board, any witness  
655 fails or refuses to attend upon a subpoena issued by the board,  
656 refuses to testify, or refuses to produce any books and papers the  
657 production of which is called for by a subpoena, the attendance of  
658 such witness, the giving of his testimony or the production of the  
659 books and papers shall be enforced by any court of competent  
660 jurisdiction of this state in the manner provided for the  
661 enforcement of attendance and testimony of witnesses in civil  
662 cases in the courts of this state.

663 (8) The board shall, within thirty (30) days after  
664 conclusion of the hearing, reduce its decision to writing and  
665 forward an attested true copy thereof to the last known residence  
666 or business address of such licensee or permit holder by way of  
667 United States first class, certified mail, postage prepaid.

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

670 73-21-101. (1) The right to appeal from the action of the  
671 board in denying, revoking, suspending or refusing to renew any  
672 license, registration or permit issued by the board, or fining or  
673 otherwise disciplining any person is hereby granted. Such appeal  
674 shall be to the chancery court of the county of the residence of  
675 the licensee or permit holder on the record made, including a  
676 verbatim transcript of the testimony at the hearing. The appeal  
677 shall be taken within thirty (30) days after notice of the action  
678 of the board in denying, revoking, suspending or refusing to renew



679 the license or permit, or fining or otherwise disciplining the  
680 person. The appeal shall be perfected upon filing notice of the  
681 appeal and by the prepayment of all costs, including the cost of  
682 the preparation of the record of the proceedings by the board, and  
683 the filing of a bond in the sum of Two Hundred Dollars (\$200.00),  
684 conditioned that if the action of the board in denying, revoking,  
685 suspending or refusing to renew the license or permit, or fining  
686 or otherwise disciplining the person, be affirmed by the chancery  
687 court, the licensee or permit holder will pay the costs of the  
688 appeal and the action in the chancery court.

689 (2) If there is an appeal, such appeal shall act as a  
690 supersedeas. The chancery court shall dispose of the appeal and  
691 enter its decision promptly. The hearing on the appeal may, in  
692 the discretion of the chancellor, be tried in vacation. The scope  
693 of review of the chancery court shall be limited to a review of  
694 the record made before the board to determine if the action of the  
695 board is unlawful for the reason that it was (a) not supported by  
696 substantial evidence, (b) arbitrary or capricious, (c) beyond the  
697 power of the board to make, or (d) in violation of some statutory  
698 or constitutional right of the appellant. The decision of the  
699 chancery court may be appealed to the Supreme Court in the manner  
700 provided by law.

701 (3) Actions taken by the board in suspending a license,  
702 registration or permit when required by Section 93-11-157 or  
703 93-11-163 are not actions from which an appeal may be taken under  
704 this section. Any appeal of a suspension of a license,  
705 registration or permit that is required by Section 93-11-157 or  
706 93-11-163 shall be taken in accordance with the appeal procedure  
707 specified in Section 93-11-157 or 93-11-163, as the case may be,  
708 rather than the procedure specified in this section.

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



711           73-21-103. (1) Upon the finding of the existence of grounds  
712 for action against any permitted facility or discipline of any  
713 person holding a license, registration or permit, seeking a  
714 license, registration or permit, or seeking to renew a license or  
715 permit under the provisions of this chapter, the board may impose  
716 one or more of the following penalties:

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

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

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

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

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

729           (ii) For the second violation and subsequent  
730 violations, a monetary penalty of not less than One Hundred  
731 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00)  
732 for each violation.

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

736           (iii) The board may assess a monetary penalty for  
737 those reasonable costs that are expended by the board in the  
738 investigation and conduct of a proceeding for licensure  
739 revocation, suspension or restriction, including but not limited  
740 to the cost of process service, court reporters, expert witnesses  
741 and investigators.



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

745 (iv) The board may impose a monetary penalty for  
746 those facilities/businesses registered with the Pharmacy Board as  
747 wholesalers/manufacturers of not less than One Hundred Dollars  
748 (\$100.00) per violation and not more than Twenty-five Thousand  
749 Dollars (\$25,000.00) per violation;

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

752 (f) Placement of the offender on probation and  
753 supervision by the board for a period to be determined by the  
754 board;

755 (g) Public or private reprimand.

756 Whenever the board imposes any penalty under this subsection,  
757 the board may require rehabilitation and/or additional education  
758 as the board may deem proper under the circumstances, in addition  
759 to the penalty imposed.

760 (2) Any person whose license, registration and/or permit has  
761 been suspended, revoked or restricted pursuant to this chapter,  
762 whether voluntarily or by action of the board, shall have the  
763 right to petition the board at reasonable intervals for  
764 reinstatement of such license, registration and/or permit. Such  
765 petition shall be made in writing and in the form prescribed by  
766 the board. Upon investigation and hearing, the board may, in its  
767 discretion, grant or deny such petition, or it may modify its  
768 original finding to reflect any circumstances which have changed  
769 sufficiently to warrant such modifications. The procedure for the  
770 reinstatement of a license, registration or permit that is  
771 suspended for being out of compliance with an order for support,  
772 as defined in Section 93-11-153, shall be governed by Section  
773 93-11-157 or 93-11-163, as the case may be.





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

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

783           (5) When payment of a monetary penalty assessed and levied  
784 by the board against a licensee, registrant or permit holder in  
785 accordance with this section is not paid by the licensee,  
786 registrant or permit holder when due under this section, the board  
787 shall have the power to institute and maintain proceedings in its  
788 name for enforcement of payment in the chancery court of the  
789 county and judicial district of residence of the licensee,  
790 registrant or permit holder, or if the licensee, registrant or  
791 permit holder is a nonresident of the State of Mississippi, in the  
792 Chancery Court of the First Judicial District of Hinds County,  
793 Mississippi. When such proceedings are instituted, the board  
794 shall certify the record of its proceedings, together with all  
795 documents and evidence, to the chancery court and the matter shall  
796 thereupon be heard in due course by the court, which shall review  
797 the record and make its determination thereon. The hearing on the  
798 matter may, in the discretion of the chancellor, be tried in  
799 vacation.

800           (6) The board shall develop and implement a uniform penalty  
801 policy which shall set the minimum and maximum penalty for any  
802 given violation of board regulations and laws governing the  
803 practice of pharmacy. The board shall adhere to its uniform  
804 penalty policy except in such cases where the board specifically  
805 finds, by majority vote, that a penalty in excess of, or less  
806 than, the uniform penalty is appropriate. Such vote shall be



807 reflected in the minutes of the board and shall not be imposed  
808 unless such appears as having been adopted by the board.

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

811         73-21-105. (1) Every facility/business that shall engage in  
812 the wholesale distribution of prescription drugs, to include  
813 without limitation, manufacturing in this state, distribution into  
814 this state, or selling or offering to sell in this state, or  
815 distribution from or within this state, shall register biennially  
816 with the Mississippi State Board of Pharmacy by applying for a  
817 permit on a form supplied by the board and accompanied by a fee as  
818 set by subsection (4) of this section. The Pharmacy Board shall  
819 by regulation determine the classification of permit(s) that shall  
820 be required.

821         (2) Every business/facility/pharmacy located in this state  
822 that engages in or proposes to engage in the dispensing and  
823 delivery of prescription drugs to consumers shall register with  
824 the Mississippi State Board of Pharmacy by applying for a permit  
825 on a form supplied by the board and accompanied by a fee as set by  
826 subsection (4) of this section. The Pharmacy Board shall by  
827 regulation determine the classification of permit(s) that shall be  
828 required.

829         (3) The board shall establish by rule or regulation the  
830 criteria which each business shall meet to qualify for a permit in  
831 each classification. The board shall issue a permit to any  
832 applicant who meets the criteria as established. The board may  
833 issue various types of permits with varying restrictions to  
834 businesses where the board deems it necessary by reason of the  
835 type of activities conducted by the business requesting a permit.

836         (4) The board shall specify by rule or regulation the  
837 registration procedures to be followed, including, but not limited  
838 to, specification of forms for use in applying for such permits  
839 and times, places and fees for filing such applications. However,



840 the biennial fee for an original or renewal permit shall not  
841 exceed Three Hundred Dollars (\$300.00).

842 (5) Applications for permits shall include the following  
843 information about the proposed business:

844 (a) Ownership;

845 (b) Location;

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

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

852 (7) The board shall specify by rule or regulation minimum  
853 standards for the responsibility in the conduct of any  
854 business/facility and/or pharmacy that has been issued a permit.  
855 The board is specifically authorized to require that the portion  
856 of the facility located in this state to which a pharmacy permit  
857 applies be operated only under the direct supervision of no less  
858 than one (1) pharmacist licensed to practice in this state, and to  
859 provide such other special requirements as deemed necessary.  
860 Nothing in this subsection shall be construed to prevent any  
861 person from owning a pharmacy.

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

864 (a) Permanent closing;

865 (b) Change of ownership, management, location or  
866 pharmacist in charge;

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

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



873           (10) No business that is required to obtain a permit shall  
874 be operated until a permit has been issued for such business by  
875 the board. Any person, firm or corporation violating any of the  
876 provisions of this section shall be guilty of a misdemeanor and,  
877 upon conviction thereof, shall be punished by a fine of not less  
878 than One Hundred Dollars (\$100.00) nor more than One Thousand  
879 Dollars (\$1,000.00), or imprisonment in the county jail for not  
880 less than thirty (30) days nor more than ninety (90) days, or by  
881 both such fine and imprisonment. However, the provisions of this  
882 chapter shall not apply to physicians, dentists, veterinarians,  
883 osteopaths or other practitioners of the healing arts who are  
884 licensed under the laws of the State of Mississippi and are  
885 authorized to dispense and administer prescription drugs in the  
886 course of their professional practice.

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

889           73-21-106. (1) Any pharmacy located outside this state that  
890 ships, mails or delivers, in any manner, controlled substances,  
891 prescription or legend drugs or devices into this state shall be  
892 considered a nonresident pharmacy, shall be registered with the  
893 board, and shall disclose to the board all of the following:

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

899           (b) That it complies with all lawful directions and  
900 requests for information from the regulatory or licensing agency  
901 of the state in which it is licensed as well as with all requests  
902 for information made by the board pursuant to this section. The  
903 nonresident pharmacy shall maintain at all times a valid unexpired  
904 license, permit or registration to conduct the pharmacy in  
905 compliance with the laws of the state in which it is a resident.



906 As a prerequisite to registering with the board, the nonresident  
907 pharmacy shall submit a copy of the most recent inspection report  
908 resulting from an inspection conducted by the regulatory or  
909 licensing agency of the state in which it is located; and

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

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

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

924 (4) The registration requirements of this section shall  
925 apply only to a nonresident pharmacy that only ships, mails or  
926 delivers controlled substances, prescription or legend drugs and  
927 devices into this state pursuant to a prescription.

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

930 (a) Failure to comply with any requirement of this  
931 section; or

932 (b) Conduct that causes serious bodily or serious  
933 psychological injury to a resident of this state if the board has  
934 referred the matter to the regulatory or licensing agency in the  
935 state in which the pharmacy is located and the regulatory or  
936 licensing agency fails to initiate an investigation within  
937 forty-five (45) days of the referral.



938           (6) It is unlawful for any nonresident pharmacy that is not  
939 registered pursuant to this section to advertise its services in  
940 this state, or for any person who is a resident of this state to  
941 advertise the pharmacy services of a nonresident pharmacy that has  
942 not registered with the board, with the knowledge that the  
943 advertisement will or is likely to induce members of the public in  
944 this state to use the pharmacy to fill prescriptions.

945           (7) When requested to do so by the board, each nonresident  
946 pharmacy shall supply any inspection reports, controlled  
947 substances dispensing records, warning notices, notice of  
948 deficiency reports or any other related reports from the state in  
949 which it is located concerning the operation of a nonresident  
950 pharmacy for review of compliance with state and federal drug  
951 laws.

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

954           73-21-107. (1) The board or its representative may enter  
955 and inspect, during reasonable hours, a facility which has  
956 obtained or applied for a permit under Section 73-21-105 relative  
957 to the following:

958                   (a) Drug storage and security;  
959                   (b) Equipment;  
960                   (c) Sanitary conditions; or  
961                   (d) Records, reports, or other documents required to be  
962 kept or made under this chapter or the Uniform Controlled  
963 Substances Law (Section 41-29-101 et seq.) or rules and  
964 regulations adopted under such laws.

965           (2) Prior to an entry and inspection, the board  
966 representative shall state his purpose and present appropriate  
967 credentials to the owner, pharmacist or agent in charge of a  
968 facility.

969           (3) The board representative may:



970 (a) Inspect and copy records, reports, and other  
971 documents required to be kept or made under this chapter, the  
972 Uniform Controlled Substances Law, or rules and regulations  
973 adopted under such laws;

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

977 (c) Inventory any stock of any prescription drugs or  
978 devices in the facility.

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

982 (a) Financial data;

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

984 (c) Pricing data.

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

987 73-21-109. No person shall make use of the terms  
988 "drugstore," "pharmacy," "apothecary" or words of similar meaning  
989 which indicate that pharmaceutical services are performed in any  
990 sign, letterhead or advertisement unless such person is a permit  
991 holder as provided in Section 73-21-105. Any person violating  
992 this section shall be guilty of a misdemeanor and, upon conviction  
993 thereof, shall be punished by a fine of not less than One Hundred  
994 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),  
995 or by imprisonment in the county jail for not less than thirty  
996 (30) days nor more than ninety (90) days, or by both.

997 **SECTION 23.** Section 73-21-111, Mississippi Code of 1972, is  
998 reenacted as follows:

999 73-21-111. The board shall make, adopt, amend and repeal  
1000 from time to time such rules and regulations for the regulation of  
1001 supportive personnel as may be deemed necessary by the board.



1002           **SECTION 24.** Section 73-21-113, Mississippi Code of 1972, is  
1003 reenacted as follows:

1004           73-21-113. All fees received by the board from examinations,  
1005 licenses, permits and monetary penalties, and any other funds  
1006 received by the board, shall be paid to the State Treasurer, who  
1007 shall issue receipts therefor and deposit such funds in the State  
1008 Treasury in a special fund to the credit of the board. All such  
1009 funds shall be expended only pursuant to appropriation approved by  
1010 the Legislature and as provided by law.

1011           **SECTION 25.** Section 73-21-115, Mississippi Code of 1972, is  
1012 reenacted as follows:

1013           73-21-115. (1) Every prescription written in this state by  
1014 a person authorized to issue such prescription shall be on  
1015 prescription forms containing two (2) lines for the prescriber's  
1016 signature. There shall be a signature line in the lower  
1017 right-hand corner of the prescription form beneath which shall be  
1018 clearly imprinted the words "substitution permissible." There  
1019 shall be a signature line in the lower left-hand corner of the  
1020 prescription form beneath which shall be clearly imprinted the  
1021 words "dispense as written." The prescriber's signature on either  
1022 signature line shall validate the prescription and shall designate  
1023 approval or disapproval of product selection.

1024           (2) If a prescription form which does not contain the two  
1025 (2) signature lines required in subsection (1) of this section is  
1026 utilized by the prescriber, he shall write in his own handwriting  
1027 the words "dispense as written" thereupon to prevent product  
1028 selection.

1029           (3) A pharmacist licensed by the Mississippi State Board of  
1030 Pharmacy may dispense a one-time emergency dispensing of a  
1031 prescription of up to a seventy-two-hour supply of a prescribed  
1032 medication in the event the pharmacist is unable to contact the  
1033 prescriber to obtain refill authorization, provided that:

1034           (a) The prescription is not for a controlled substance;





1035 (b) In the pharmacist's professional judgment, the  
1036 interruption of therapy might reasonably produce undesirable  
1037 health consequences or may cause physical or mental discomfort;

1038 (c) The dispensing pharmacist notifies the prescriber  
1039 or his agent of the emergency dispensing within seven (7) working  
1040 days after the one-time emergency dispensing;

1041 (d) The pharmacist properly records the dispensing as a  
1042 separate nonrefillable prescription. Said document shall be filed  
1043 as is required of all other prescription records. This document  
1044 shall be serially numbered and contain all information required of  
1045 other prescriptions. In addition it shall contain the number of  
1046 the prescription from which it was refilled; and

1047 (e) The pharmacist shall record on the new document the  
1048 circumstances which warrant this emergency dispensing.

1049 This emergency dispensing shall be done only in the permitted  
1050 facility which contains the nonrefillable prescription.

1051 **SECTION 26.** Section 73-21-117, Mississippi Code of 1972, is  
1052 reenacted as follows:

1053 73-21-117. (1) A pharmacist may select a generic equivalent  
1054 drug product only when such selection results in lower cost to the  
1055 purchaser, unless product selection is expressly prohibited by the  
1056 prescriber.

1057 (2) A pharmacist shall select a generic equivalent drug  
1058 product when:

1059 (a) The purchaser requests the selection of a generic  
1060 equivalent drug product;

1061 (b) The prescriber has not expressly prohibited product  
1062 selection; and

1063 (c) Product selection will result in lower cost to the  
1064 purchaser.

1065 Before product selection is made, the pharmacist shall advise  
1066 the purchaser of his prerogatives under this subsection.



1067           (3) When requested by the purchaser to dispense the drug  
1068 product as ordered by the prescriber, a pharmacist shall not  
1069 select a generic equivalent drug product.

1070           **SECTION 27.** Section 73-21-119, Mississippi Code of 1972, is  
1071 reenacted as follows:

1072           73-21-119. (1) The label of the container of any drug  
1073 product which is sold within the State of Mississippi for resale  
1074 at retail and which requires a prescription to be dispensed at  
1075 retail shall contain at a minimum the name of the manufacturer of  
1076 the final dosage unit, expiration date if applicable, batch or lot  
1077 number and national drug code.

1078           (2) Whenever product selection is made, the pharmacist shall  
1079 indicate on the label of the dispensed container the initials  
1080 "G.E." and the proprietary name of the product dispensed or the  
1081 generic name of the product dispensed and its manufacturer either  
1082 written in full or appropriately abbreviated, unless the  
1083 prescriber indicates that the name of the drug product shall not  
1084 appear on the label.

1085           **SECTION 28.** Section 73-21-121, Mississippi Code of 1972, is  
1086 reenacted as follows:

1087           73-21-121. (1) Product selection as authorized by Sections  
1088 73-21-115 through 73-21-119 shall not constitute evidence of  
1089 negligence by the dispensing pharmacist when such product  
1090 selection is in accordance with reasonable and prudent pharmacy  
1091 practice. No prescriber shall be liable for civil damages or in  
1092 any criminal prosecution arising from the incorrect product  
1093 selection by a pharmacist.

1094           (2) Any person having knowledge relating to a pharmacist or  
1095 to a pharmacy student which might provide grounds for disciplinary  
1096 action by the board may report relevant facts to the board, and  
1097 shall by reason of reporting such facts in good faith be immune  
1098 from civil liability.



1099           (3) Any person furnishing information in the form of data,  
1100 reports or records to the board or to a pharmacist organization  
1101 approved by the board to receive such information, where such  
1102 information is furnished for the purpose of aiding a pharmacist or  
1103 a pharmacy student impaired by chemical abuse or by mental or by  
1104 physical illness, shall by reason of furnishing such information  
1105 in good faith be immune from civil liability.

1106           (4) The records of the board or the records of a pharmacist  
1107 organization approved by the board to aid pharmacists or pharmacy  
1108 students impaired by chemical abuse, where such records relate to  
1109 the impairment, shall be confidential and are not considered open  
1110 records; provided, however, the board may disclose this  
1111 confidential information only:

1112                 (a) In a disciplinary hearing before the board, or in  
1113 an appeal of an action or order of the board;

1114                 (b) To the pharmacist licensing or disciplinary  
1115 authorities of other jurisdictions in the case of a pharmacist who  
1116 is licensed in, or seeking transfer to, another state; or

1117                 (c) Pursuant to an order of a court of competent  
1118 jurisdiction.

1119           **SECTION 29.** Section 73-21-123, Mississippi Code of 1972, is  
1120 reenacted as follows:

1121           73-21-123. Nothing in this chapter shall be construed to  
1122 prevent, or in any manner interfere with, or to require a permit  
1123 for the sale of nonnarcotic nonprescription drugs which may be  
1124 lawfully sold under the United States Food, Drug and Cosmetic Act  
1125 (21 USCS 301 et seq. as now or hereafter amended) without a  
1126 prescription, nor shall any rule or regulation be adopted by the  
1127 board under the provisions of this chapter which shall require the  
1128 sale of nonprescription drugs by a licensed pharmacist of in a  
1129 pharmacy or otherwise apply to or interfere with the sale or  
1130 distribution of such drugs.



1131           **SECTION 30.** This act shall take effect and be in force from  
1132 and after July 1, 2002.

