

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2129

1 AN ACT TO AMEND SECTION 73-21-69, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE AUTOMATIC REPEALER ON THE MISSISSIPPI PHARMACY
3 PRACTICE ACT; TO REENACT SECTIONS 73-21-71 THROUGH 73-21-123,
4 MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI PHARMACY ACT;
5 TO AMEND SECTION 73-21-75, MISSISSIPPI CODE OF 1972, TO PROVIDE
6 THAT FROM AND AFTER JANUARY 1, 2002, APPOINTMENTS TO THE STATE
7 BOARD OF PHARMACY SHALL BE MADE FROM THE FOUR MISSISSIPPI
8 CONGRESSIONAL DISTRICTS ON A PHASED-IN BASIS; TO AMEND SECTION
9 73-21-111, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
10 REGISTRATION OF PHARMACY TECHNICIANS; AND FOR RELATED PURPOSES.

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

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

14 73-21-69. Sections 73-21-71 through 73-21-123, which create
15 the State Board of Pharmacy and prescribe its duties and powers,
16 shall stand repealed as of July 1, 2006.

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

19 73-21-71. This chapter shall be known as the "Mississippi
20 Pharmacy Practice Act."

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

23 73-21-73. As used in this chapter, unless the context
24 requires otherwise:

25 (a) "Administer" shall mean the direct application of a
26 prescription drug pursuant to a lawful order of a practitioner to
27 the body of a patient by injection, inhalation, ingestion or any
28 other means.

29 (b) "Board of Pharmacy", "pharmacy board", "MSBP" or
30 "board" shall mean the State Board of Pharmacy.



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

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

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

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

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



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

65 (i) "Drug" shall mean:

66 (i) Articles recognized as drugs in the official
67 United States Pharmacopeia, official National Formulary, official
68 Homeopathic Pharmacopeia, other drug compendium or any supplement
69 to any of them;

70 (ii) Articles intended for use in the diagnosis,
71 cure, mitigation, treatment or prevention of disease in man or
72 other animals;

73 (iii) Articles other than food intended to affect
74 the structure or any function of the body of man or other animals;
75 and

76 (iv) Articles intended for use as a component of
77 any articles specified in subparagraphs (i), (ii), or (iii) of
78 this paragraph.

79 (j) "Drugroom" shall mean a business, which does not
80 require the services of a pharmacist, where prescription drugs or
81 prescription devices are bought, sold, maintained or provided to
82 consumers.

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

151 (y) "Prepackaging" shall mean the act of placing small
152 precounted quantities of drug products in containers suitable for
153 dispensing or administering in anticipation of prescriptions or
154 orders.

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

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



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

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

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

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

184 (i) "Caution: Federal law prohibits dispensing
185 without prescription," or

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



191 (ee) "Product selection" shall mean the dispensing of a
192 generic equivalent drug product in lieu of the drug product
193 ordered by the prescriber.

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

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

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

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

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

217 (kk) "Wholesaler" shall mean a person who buys or
218 otherwise acquires prescription drugs or prescription devices for
219 resale or distribution, or for repackaging for resale or
220 distribution, to persons other than consumers.

221 **SECTION 4.** Section 73-21-75, Mississippi Code of 1972, is
222 amended as follows:



223 73-21-75. (1) The State Board of Pharmacy created by former
224 Section 73-21-9 is hereby continued and reconstituted as follows:
225 The board shall consist of seven (7) appointed members. At least
226 one (1) appointment shall be made from each congressional
227 district. Each appointed member of the board shall be appointed
228 by the Governor, with the advice and consent of the Senate, from a
229 list of five (5) names submitted by the Mississippi State
230 Pharmaceutical Association/Mississippi Pharmacists Association.
231 Of the members appointed, one (1) shall, at the time of
232 appointment, have had five (5) years' experience as a pharmacist
233 at a facility holding an institutional permit, and one (1) shall,
234 at the time of appointment, have had five (5) years' experience as
235 a pharmacist at a facility holding a retail permit. Any person
236 appointed to the board shall be limited to two (2) full terms of
237 office during any fifteen-year period, including any member
238 serving on May 14, 1992.

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

250 (a) The term of the member from the First Congressional
251 District shall expire on July 1, 1984; and from and after July 1,
252 1996, this appointment shall be designated as Post 1.

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



255 after July 1, 1996, this appointment shall be designated as Post
256 2.

257 (c) The term of the member from the Third Congressional
258 District shall expire on July 1, 1986; and from and after July 1,
259 1996, this appointment shall be designated as Post 3.

260 (d) The term of the member from the Fourth
261 Congressional District shall expire on July 1, 1985; and from and
262 after July 1, 1996, this appointment shall be designated as Post
263 4.

264 (e) The term of the member from the Fifth Congressional
265 District shall expire on July 1, 1987; and from and after July 1,
266 1996, this appointment shall be designated as Post 5.

267 (f) The term of one (1) of the members from the state
268 at large shall expire on July 1, 1985; and from and after July 1,
269 1996, this appointment shall be designated as Post 6.

270 (g) The term of the other member from the state at
271 large shall expire on July 1, 1988; and from and after July 1,
272 1996, this appointment shall be designated as Post 7.

273 The members of the board as constituted on January 1, 2002,
274 whose terms have not expired shall serve the balance of their
275 terms, after which time the membership of the board shall be
276 appointed as follows: There shall be appointed one (1) member of
277 the board from each of the four (4) Mississippi congressional
278 districts as they exist on January 1, 2002, and three (3) members
279 from the state at large, and the Governor shall make appointments
280 from the congressional district having the smallest number of
281 board members until the membership includes at least one (1)
282 member from each congressional district as required; and the
283 Mississippi Pharmaceutical Association/Mississippi Pharmacists
284 Association shall make nominations to the Governor from the
285 appropriate congressional district as required.

286 (3) At the expiration of a term, members of the board shall
287 be appointed in the manner prescribed in subsection (1) of this



288 section for terms of five (5) years from the expiration date of
289 the previous terms. Any vacancy on the board prior to the
290 expiration of a term for any reason, including resignation,
291 removal, disqualification, death or disability, shall be filled by
292 appointment of the Governor in the manner prescribed in subsection
293 (1) of this section for the balance of the unexpired term. The
294 Mississippi State Pharmaceutical Association/Mississippi
295 Pharmacists Association shall submit a list of nominees no more
296 than thirty (30) days after a vacancy occurs, and the Governor
297 shall fill such vacancies within ninety (90) days after each such
298 vacancy occurs.

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

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

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

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

307 (d) Be actively engaged full time in the practice of
308 pharmacy in Mississippi.

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



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

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

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

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

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

338 (5) A majority of the members of the board shall constitute
339 a quorum for the conduct of the meeting and all actions of the
340 board shall be by a majority.

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

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

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



353 (2) The executive director shall receive a salary to be set
354 by the board, subject to the approval of the State Personnel
355 Board, and shall be entitled to necessary expenses incurred in the
356 performance of his official duties. He shall devote full time to
357 the duties of his office and shall not be interested directly or
358 indirectly as defined in Section 73-21-73 in the operation of a
359 pharmacy in Mississippi or any other facility permitted by the
360 board or engaged in any other business that will interfere with
361 the duties of his office.

362 (3) The duties and responsibilities of the executive
363 director shall be defined by rules and regulations prescribed by
364 the board.

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

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

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

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



386 73-21-83. (1) The board shall be responsible for the
387 control and regulation of the practice of pharmacy, to include the
388 regulation of pharmacy externs or interns and pharmacist
389 technicians, in this state, the regulation of the wholesaler
390 distribution of drugs and devices as defined in Section 73-21-73,
391 and the distribution of sample drugs or devices by manufacturer's
392 distributors as defined in Section 73-21-73 by persons other than
393 the original manufacturer or distributor in this state.

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

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

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

412 (5) All persons licensed to practice pharmacy prior to July
413 1, 1991, by the State Board of Pharmacy under Section 73-21-89
414 shall continue to be licensed under the provisions of Section
415 73-21-91.

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



418 73-21-85. (1) To obtain a license to engage in the practice
419 of pharmacy by examination, or by score transfer, the applicant
420 shall:

421 (a) Have submitted a written application on the form
422 prescribed by the board;

423 (b) Be of good moral character;

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

427 (d) Have successfully passed an examination approved by
428 the board;

429 (e) Have paid all fees specified by the board for
430 examination, not to exceed the cost to the board of administering
431 the examination;

432 (f) Have paid all fees specified by the board for
433 licensure; and

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

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

444 (a) Have submitted a written application on the form
445 prescribed by the board;

446 (b) Be of good moral character;

447 (c) Have graduated and been granted a pharmacy degree
448 from a college or school of pharmacy recognized and approved by
449 the National Association of Boards of Pharmacy's Foreign Pharmacy
450 Graduate Examination Committee;



451 (d) Have paid all fees specified by the board for
452 examination, not to exceed the cost to the board of administering
453 the examination;

454 (e) Have successfully passed an examination approved by
455 the board;

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

458 (g) Have paid all fees specified by the board for
459 licensure.

460 (3) Each application or filing made under this section shall
461 include the social security number(s) of the applicant in
462 accordance with Section 93-11-64, Mississippi Code of 1972.

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

465 73-21-87. (1) To obtain a license to engage in the practice
466 of pharmacy by reciprocity or license transfer, the applicant
467 shall:

468 (a) Have submitted a written application on the form
469 prescribed by the board;

470 (b) Be of good moral character;

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

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

479 (e) Have paid all fees specified by the board for
480 licensure.

481 (2) No applicant shall be eligible for licensure by
482 reciprocity or license transfer or unless the state in which the
483 applicant was initially licensed also grants a reciprocal license



484 or transfer license to pharmacists licensed by this state under
485 like circumstances and conditions.

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

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

491 73-21-89. (1) The board shall issue a license to practice
492 pharmacy to any person, if such person be otherwise qualified,
493 upon presentation to the board of:

494 (a) Satisfactory proof that the applicant has graduated
495 from the University of Mississippi School of Pharmacy;

496 (b) Written application for licensure; and

497 (c) Payment of all fees specified by the board for
498 licensure.

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

501 (3) Each application or filing made under this section shall
502 include the social security number(s) of the applicant in
503 accordance with Section 93-11-64, Mississippi Code of 1972.

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

506 73-21-91. (1) Every pharmacist shall renew his license
507 biennially. To renew his license, a pharmacist shall:

508 (a) Submit an application for renewal on the form
509 prescribed by the board;

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

514 (c) Pay such renewal fees as required by the board, not
515 to exceed Two Hundred Dollars (\$200.00) for each biennial
516 licensing period, provided that the board may add a surcharge of



517 not more than Five Dollars (\$5.00) to a license renewal fee to
518 fund a program to aid impaired pharmacists or pharmacy students.
519 Any pharmacist license renewal received postmarked after December
520 31 of the renewal period will be returned and a Fifty Dollar
521 (\$50.00) late renewal fee will be assessed prior to renewal.

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

536 (3) Each application or filing made under this section shall
537 include the social security number(s) of the applicant in
538 accordance with Section 93-11-64, Mississippi Code of 1972.

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

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

547 (2) The examination shall be prepared to measure the
548 competence of the applicant to engage in the practice of pharmacy.
549 The board may employ and cooperate with any organization or



550 consultant in the preparation and grading of an appropriate
551 examination, but shall retain the sole discretion and
552 responsibility of determining which applicants have successfully
553 passed such an examination.

554 (3) The board shall have authority to use the laboratories
555 of the School of Pharmacy and other facilities of the University
556 of Mississippi for the purpose of examining applicants.

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

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

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

566 73-21-97. (1) The board may refuse to issue or renew, or
567 may suspend, reprimand, revoke or restrict the license,
568 registration or permit of any person upon one or more of the
569 following grounds:

570 (a) Unprofessional conduct as defined by the rules and
571 regulations of the board;

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

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

577 (i) A felony;

578 (ii) Any act involving moral turpitude or gross
579 immorality; or

580 (iii) Violation of pharmacy or drug laws of this
581 state or rules or regulations pertaining thereto, or of statutes,
582 rules or regulations of any other state or the federal government;



583 (d) Fraud or intentional misrepresentation by a
584 licensee or permit holder in securing the issuance or renewal of a
585 license or permit;

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

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

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

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

593 (i) Addiction to or dependence on alcohol or controlled
594 substances or the unauthorized use or possession of controlled
595 substances;

596 (j) Misappropriation of any prescription drug;

597 (k) Being found guilty by the licensing agency in
598 another state of violating the statutes, rules or regulations of
599 that jurisdiction; or

600 (1) The unlawful or unauthorized possession of a
601 controlled substance.

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

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



616 may be. If there is any conflict between any provision of Section
617 93-11-157 or 93-11-163 and any provision of this chapter, the
618 provisions of Section 93-11-157 or 93-11-163, as the case may be,
619 shall control.

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

622 73-21-99. (1) Disciplinary action by the board against a
623 licensee, registrant or permit holder, or license, registration or
624 permit shall require the following:

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

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

638 (2) The board shall designate two (2) of its members to
639 serve on a rotating no longer than three-consecutive-month basis
640 with the executive director and legal counsel for the board as an
641 Investigations Review Committee, and the board's investigators
642 shall provide status reports solely to the Investigations Review
643 Committee during monthly meetings of the board. Such reports
644 shall be made on all on-going investigations, and shall apply to
645 any routine inspections which may give rise to the filing of a
646 complaint. In the event any complaint on a licensee comes before
647 the board for possible disciplinary action, the members of the
648 board serving on the Investigations Review Committee which



649 reviewed the investigation of such complaint shall recuse
650 themselves and not participate in the disciplinary proceeding.

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

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

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

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

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

680 (8) The board shall, within thirty (30) days after
681 conclusion of the hearing, reduce its decision to writing and



682 forward an attested true copy thereof to the last known residence
683 or business address of such licensee or permit holder by way of
684 United States first-class, certified mail, postage prepaid.

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

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

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



715 or constitutional right of the appellant. The decision of the
716 chancery court may be appealed to the Supreme Court in the manner
717 provided by law.

718 (3) Actions taken by the board in suspending a license,
719 registration or permit when required by Section 93-11-157 or
720 93-11-163 are not actions from which an appeal may be taken under
721 this section. Any appeal of a suspension of a license,
722 registration or permit that is required by Section 93-11-157 or
723 93-11-163 shall be taken in accordance with the appeal procedure
724 specified in Section 93-11-157 or 93-11-163, as the case may be,
725 rather than the procedure specified in this section.

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

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

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

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

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

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

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

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



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

750 Money collected by the board under this section,
751 paragraphs (1)(d)(i), (ii) and (iv) shall be deposited to the
752 credit of the State General Fund of the State Treasury;

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

759 Money collected by the board under this section,
760 paragraph (1)(d)(iii), shall be deposited to the credit of the
761 Special Fund of the Pharmacy Board;

762 (iv) The board may impose a monetary penalty for
763 those facilities/businesses registered with the pharmacy board as
764 wholesalers manufacturers of not less than One Hundred Dollars
765 (\$100.00) per violation and not more than Twenty-five Thousand
766 Dollars (\$25,000.00) per violation;

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

769 (f) Placement of the offender on probation and
770 supervision by the board for a period to be determined by the
771 board;

772 (g) Public or private reprimand.

773 Whenever the board imposes any penalty under this subsection,
774 the board may require rehabilitation and/or additional education
775 as the board may deem proper under the circumstances, in addition
776 to the penalty imposed.

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



781 reinstatement of such license, registration and/or permit. Such
782 petition shall be made in writing and in the form prescribed by
783 the board. Upon investigation and hearing, the board may, in its
784 discretion, grant or deny such petition, or it may modify its
785 original finding to reflect any circumstances which have changed
786 sufficiently to warrant such modifications. The procedure for the
787 reinstatement of a license, registration or permit that is
788 suspended for being out of compliance with an order for support,
789 as defined in Section 93-11-153, shall be governed by Section
790 93-11-157 or 93-11-163, as the case may be.

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

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

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



814 the record and make its determination thereon. The hearing on the
815 matter may, in the discretion of the chancellor, be tried in
816 vacation.

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

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

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

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



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

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

859 (5) Applications for permits shall include the following
860 information about the proposed business:

861 (a) Ownership;

862 (b) Location;

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

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

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



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

881 (a) Permanent closing;

882 (b) Change of ownership, management, location or
883 pharmacist in charge;

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

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

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

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

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



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

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

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

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

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

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



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

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

947 (a) Failure to comply with any requirement of this
948 section; or

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

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

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

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

971 73-21-107. (1) The board or its representative may enter
972 and inspect, during reasonable hours, a facility which has
973 obtained or applied for a permit under Section 73-21-105 relative
974 to the following:

975 (a) Drug storage and security;



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

982 (2) Prior to an entry and inspection, the board
983 representative shall state his purpose and present appropriate
984 credentials to the owner, pharmacist, or agent in charge of a
985 facility.

986 (3) The board representative may:

987 (a) Inspect and copy records, reports, and other
988 documents required to be kept or made under this chapter, the
989 Uniform Controlled Substances Law, or rules and regulations
990 adopted under such laws;

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

994 (c) Inventory any stock of any prescription drugs or
995 devices in the facility.

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

999 (a) Financial data;

1000 (b) Sales data other than shipment data; or

1001 (c) Pricing data.

1002 **SECTION 22.** Section 73-21-109, Mississippi Code of 1972, is
1003 reenacted as follows:

1004 73-21-109. No person shall make use of the terms
1005 "drugstore," "pharmacy," "apothecary" or words of similar meaning
1006 which indicate that pharmaceutical services are performed in any
1007 sign, letterhead or advertisement unless such person is a permit
1008 holder as provided in Section 73-21-105. Any person violating



1009 this section shall be guilty of a misdemeanor and, upon conviction
1010 thereof, shall be punished by a fine of not less than One Hundred
1011 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),
1012 or by imprisonment in the county jail for not less than thirty
1013 (30) days nor more than ninety (90) days, or by both.

1014 **SECTION 23.** Section 73-21-111, Mississippi Code of 1972, is
1015 amended as follows:

1016 73-21-111. (1) The board shall make, adopt, amend and
1017 repeal from time to time such rules and regulations for the
1018 regulation of supportive personnel as may be deemed necessary by
1019 the board.

1020 (2) Every person who acts or serves as a pharmacy technician
1021 in a pharmacy that is located in this state and permitted by the
1022 board shall obtain a registration from the board. To obtain a
1023 pharmacy technician registration the applicant shall:

1024 (a) Have submitted a written application on a form(s)
1025 prescribed by the board; and

1026 (b) Be of good moral character; and

1027 (c) Have paid the initial registration fee not to
1028 exceed One Hundred Dollars (\$100.00).

1029 (3) Each pharmacy technician shall renew his/her
1030 registration annually. To renew his/her registration, a
1031 technician shall:

1032 (a) Submit an application on a form prescribed by the
1033 board; and

1034 (b) Pay a renewal fee not to exceed One Hundred Dollars
1035 (\$100.00) for each annual registration period. The board may add
1036 a surcharge of not more than Five Dollars (\$5.00) to the
1037 registration renewal fee to assist in funding a program that
1038 assists impaired pharmacists, pharmacy students and pharmacy
1039 technicians.

1040 **SECTION 24.** Section 73-21-113, Mississippi Code of 1972, is
1041 reenacted as follows:



1042 73-21-113. All fees received by the board from examinations,
1043 licenses, permits and monetary penalties, and any other funds
1044 received by the board, shall be paid to the State Treasurer, who
1045 shall issue receipts therefor and deposit such funds in the State
1046 Treasury in a special fund to the credit of the board. All such
1047 funds shall be expended only pursuant to appropriation approved by
1048 the Legislature and as provided by law.

1049 **SECTION 25.** Section 73-21-115, Mississippi Code of 1972, is
1050 reenacted as follows:

1051 73-21-115. (1) Every prescription written in this state by
1052 a person authorized to issue such prescription shall be on
1053 prescription forms containing two (2) lines for the prescriber's
1054 signature. There shall be a signature line in the lower
1055 right-hand corner of the prescription form beneath which shall be
1056 clearly imprinted the words "substitution permissible." There
1057 shall be a signature line in the lower left-hand corner of the
1058 prescription form beneath which shall be clearly imprinted the
1059 words "dispense as written." The prescriber's signature on either
1060 signature line shall validate the prescription and shall designate
1061 approval or disapproval of product selection.

1062 (2) If a prescription form which does not contain the two
1063 (2) signature lines required in subsection (1) of this section is
1064 utilized by the prescriber, he shall write in his own handwriting
1065 the words "dispense as written" thereupon to prevent product
1066 selection.

1067 (3) A pharmacist licensed by the Mississippi State Board of
1068 Pharmacy may dispense a one-time emergency dispensing of a
1069 prescription of up to a seventy-two-hour supply of a prescribed
1070 medication in the event the pharmacist is unable to contact the
1071 prescriber to obtain refill authorization, provided that:

1072 (a) The prescription is not for a controlled substance;



1073 (b) In the pharmacist's professional judgment, the
1074 interruption of therapy might reasonably produce undesirable
1075 health consequences or may cause physical or mental discomfort;

1076 (c) The dispensing pharmacist notifies the prescriber
1077 or his agent of the emergency dispensing within seven (7) working
1078 days after the one-time emergency dispensing;

1079 (d) The pharmacist properly records the dispensing as a
1080 separate non-refillable prescription. Said document shall be
1081 filed as is required of all other prescription records. This
1082 document shall be serially numbered and contain all information
1083 required of other prescriptions. In addition it shall contain the
1084 number of the prescription from which it was refilled; and

1085 (e) The pharmacist shall record on the new document the
1086 circumstances which warrant this emergency dispensing.

1087 This emergency dispensing shall be done only in the permitted
1088 facility which contains the non-refillable prescription.

1089 **SECTION 26.** Section 73-21-117, Mississippi Code of 1972, is
1090 reenacted as follows:

1091 73-21-117. (1) A pharmacist may select a generic equivalent
1092 drug product only when such selection results in lower cost to the
1093 purchaser, unless product selection is expressly prohibited by the
1094 prescriber.

1095 (2) A pharmacist shall select a generic equivalent drug
1096 product when:

1097 (a) The purchaser requests the selection of a generic
1098 equivalent drug product;

1099 (b) The prescriber has not expressly prohibited product
1100 selection; and

1101 (c) Product selection will result in lower cost to the
1102 purchaser.

1103 Before product selection is made, the pharmacist shall advise
1104 the purchaser of his prerogatives under this subsection.



1105 (3) When requested by the purchaser to dispense the drug
1106 product as ordered by the prescriber, a pharmacist shall not
1107 select a generic equivalent drug product.

1108 **SECTION 27.** Section 73-21-119, Mississippi Code of 1972, is
1109 reenacted as follows:

1110 73-21-119. (1) The label of the container of any drug
1111 product which is sold within the State of Mississippi for resale
1112 at retail and which requires a prescription to be dispensed at
1113 retail shall contain at a minimum the name of the manufacturer of
1114 the final dosage unit, expiration date if applicable, batch or lot
1115 number and national drug code.

1116 (2) Whenever product selection is made, the pharmacist shall
1117 indicate on the label of the dispensed container the initials
1118 "G.E." and the proprietary name of the product dispensed or the
1119 generic name of the product dispensed and its manufacturer either
1120 written in full or appropriately abbreviated, unless the
1121 prescriber indicates that the name of the drug product shall not
1122 appear on the label.

1123 **SECTION 28.** Section 73-21-121, Mississippi Code of 1972, is
1124 reenacted as follows:

1125 73-21-121. (1) Product selection as authorized by Sections
1126 73-21-115 through 73-21-119 shall not constitute evidence of
1127 negligence by the dispensing pharmacist when such product
1128 selection is in accordance with reasonable and prudent pharmacy
1129 practice. No prescriber shall be liable for civil damages or in
1130 any criminal prosecution arising from the incorrect product
1131 selection by a pharmacist.

1132 (2) Any person having knowledge relating to a pharmacist or
1133 to a pharmacy student which might provide grounds for disciplinary
1134 action by the board may report relevant facts to the board, and
1135 shall by reason of reporting such facts in good faith be immune
1136 from civil liability.



1137 (3) Any person furnishing information in the form of data,
1138 reports or records to the board or to a pharmacist organization
1139 approved by the board to receive such information, where such
1140 information is furnished for the purpose of aiding a pharmacist or
1141 a pharmacy student impaired by chemical abuse or by mental or by
1142 physical illness, shall by reason of furnishing such information
1143 in good faith be immune from civil liability.

1144 (4) The records of the board or the records of a pharmacist
1145 organization approved by the board to aid pharmacists or pharmacy
1146 students impaired by chemical abuse, where such records relate to
1147 the impairment, shall be confidential and are not considered open
1148 records; provided, however, the board may disclose this
1149 confidential information only:

1150 (a) In a disciplinary hearing before the board, or in
1151 an appeal of an action or order of the board;

1152 (b) To the pharmacist licensing or disciplinary
1153 authorities of other jurisdictions in the case of a pharmacist who
1154 is licensed in, or seeking transfer to, another state; or

1155 (c) Pursuant to an order of a court of competent
1156 jurisdiction.

1157 **SECTION 29.** Section 73-21-123, Mississippi Code of 1972, is
1158 reenacted as follows:

1159 73-21-123. Nothing in this chapter shall be construed to
1160 prevent, or in any manner interfere with, or to require a permit
1161 for the sale of nonnarcotic nonprescription drugs which may be
1162 lawfully sold under the United States Food, Drug and Cosmetic Act
1163 (21 USC 301 et seq. as now or hereafter amended) without a
1164 prescription, nor shall any rule or regulation be adopted by the
1165 board under the provisions of this chapter which shall require the
1166 sale of nonprescription drugs by a licensed pharmacist or in a
1167 pharmacy or otherwise apply to or interfere with the sale or
1168 distribution of such drugs.



1169 **SECTION 30.** This act shall take effect and be in force from
1170 and after June 30, 2002.

