

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2129**

**By Representative(s) Committee**

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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21 shall stand repealed on July 1, 2006.

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

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

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

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

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

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

36           (c) "Compounding" means (i) the production,

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

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

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

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

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

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

70 (i) "Drug" shall mean:

71 (i) Articles recognized as drugs in the official

72 United States Pharmacopeia, official National Formulary, official  
73 Homeopathic Pharmacopeia, other drug compendium or any supplement  
74 to any of them;

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

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

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

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

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

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

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

107 as may be adopted by the board for the protection of the public to  
108 assure that such drug product is therapeutically equivalent.

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

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

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

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

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

128 (s) "Manufacturing" of prescription products shall mean  
129 the production, preparation, propagation, conversion or processing  
130 of a drug or device, either directly or indirectly, by extraction  
131 from substances from natural origin or independently by means of  
132 chemical or biological synthesis, or from bulk chemicals and  
133 includes any packaging or repackaging of the substance(s) or  
134 labeling or relabeling of its container, if such actions are  
135 associated with promotion and marketing of such drug or devices.

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

140 (u) "Nonprescription drugs" shall mean nonnarcotic  
141 medicines or drugs that may be sold without a prescription and are

142 prepackaged and labeled for use by the consumer in accordance with  
143 the requirements of the statutes and regulations of this state and  
144 the federal government.

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

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

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

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

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

163 (aa) "Practice of pharmacy" shall mean a health care  
164 service that includes, but is not limited to, the compounding,  
165 dispensing, and labeling of drugs or devices; interpreting and  
166 evaluating prescriptions; administering and distributing drugs and  
167 devices; the compounding, dispensing and labeling of drugs and  
168 devices; maintaining prescription drug records; advising and  
169 consulting concerning therapeutic values, content, hazards and  
170 uses of drugs and devices; initiating or modifying of drug therapy  
171 in accordance with written guidelines or protocols previously  
172 established and approved by the board; selecting drugs;  
173 participating in drug utilization reviews; storing prescription  
174 drugs and devices; ordering lab work in accordance with written  
175 guidelines or protocols as defined by paragraph (jj) of this  
176 section; providing pharmacotherapeutic consultations; supervising

177 supportive personnel and such other acts, services, operations or  
178 transactions necessary or incidental to the conduct of the  
179 foregoing.

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

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

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

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

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

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

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

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

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

210 (ii) "Supportive personnel" or "pharmacist technician"  
211 shall mean those individuals utilized in pharmacies whose

212 responsibilities are to provide nonjudgmental technical services  
213 concerned with the preparation and distribution of drugs under the  
214 direct supervision and responsibility of a pharmacist.

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

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

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

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

242 Any person appointed to the board shall be limited to two (2)  
243 full terms of office during any fifteen-year period, including any  
244 member serving on May 14, 1992.

245 (2) The members of the board appointed and serving prior to  
246 July 1, 1983, whose terms have not expired by July 1, 1983, shall

247 serve the balance of their terms as members of the reconstituted  
248 board, and they shall be considered to be from the same  
249 congressional districts from which they were originally appointed  
250 if they still reside therein, even if the district boundaries have  
251 changed subsequent to their original appointments. The Governor  
252 shall appoint the remaining members of the reconstituted board in  
253 the manner prescribed in subsection (1) of this section on July 1,  
254 1983. The initial members of the reconstituted board shall serve  
255 terms of office as follows:

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

259 (b) The term of the member from the Second  
260 Congressional District shall expire on July 1, 1988; and from and  
261 after July 1, 1996, this appointment shall be designated as Post  
262 2.

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

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

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

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

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

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



282           (3) At the expiration of a term, members of the board shall  
283 be appointed in the manner prescribed in subsection (1) of this  
284 section for terms of five (5) years from the expiration date of  
285 the previous terms. Any vacancy on the board prior to the  
286 expiration of a term for any reason, including resignation,  
287 removal, disqualification, death or disability, shall be filled by  
288 appointment of the Governor in the manner prescribed in subsection  
289 (1) of this section for the balance of the unexpired term.

290 The \* \* \* Mississippi Pharmacists Association, with input from the  
291 Magnolia Pharmaceutical Society and other pharmacist associations  
292 or societies, shall submit a list of nominees no more than thirty  
293 (30) days after a vacancy occurs, and the Governor shall fill such  
294 vacancies within ninety (90) days after each such vacancy occurs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

349           (2) The executive director shall receive a salary to be set  
350 by the board, subject to the approval of the State Personnel  
351 Board, and shall be entitled to necessary expenses incurred in the

352 performance of his official duties. He shall devote full time to  
353 the duties of his office and shall not be interested directly or  
354 indirectly as defined in Section 73-21-73 in the operation of a  
355 pharmacy in Mississippi or any other facility permitted by the  
356 board or engaged in any other business that will interfere with  
357 the duties of his office.

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

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

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

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

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

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

387 and the distribution of sample drugs or devices by manufacturer's  
388 distributors as defined in Section 73-21-73 by persons other than  
389 the original manufacturer or distributor in this state.

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

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

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

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

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

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

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

419 (b) Be of good moral character;

420 (c) Have graduated from a school or college of pharmacy  
421 accredited by the American Council of Pharmaceutical Education and

422 have been granted a pharmacy degree therefrom;

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

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

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

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

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

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

442 (b) Be of good moral character;

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

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

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

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

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

456 (3) Each application or filing made under this section shall

457 include the social security number(s) of the applicant in  
458 accordance with Section 93-11-64, Mississippi Code of 1972.

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

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

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

466 (b) Be of good moral character;

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

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

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

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

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

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

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

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

492 (b) Written application for licensure; and  
493 (c) Payment of all fees specified by the board for  
494 licensure.

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

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

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

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

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

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

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

518 (2) Any pharmacist who has defaulted in license renewal may  
519 be reinstated within two (2) years upon payment of renewal fees in  
520 arrears and presentation of evidence of the required continuing  
521 education. Any pharmacist defaulting in license renewal for a  
522 period in excess of two (2) years shall be required to  
523 successfully complete the examination given by the board pursuant  
524 to Section 73-21-85 before being eligible for reinstatement as a  
525 pharmacist in Mississippi, or shall be required to appear before  
526 the board to be examined for his competence and knowledge of the

527 practice of pharmacy, and may be required to submit evidence of  
528 continuing education. If such person is found fit by the board to  
529 practice pharmacy in this state, the board may reinstate his  
530 license to practice pharmacy upon payment of all renewal fees in  
531 arrears.

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

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

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

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

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

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

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

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



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

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

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

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

573                   (i) A felony;

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

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

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

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

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

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

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

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

592           (j) Misappropriation of any prescription drug;

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

596           (l) The unlawful or unauthorized possession of a

597 controlled substance.

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

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

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

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

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

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

632 by certified mail, postage prepaid, to the last known residence or  
633 business address of the licensee or permit holder.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

734           (c) Restriction of the offender's license, registration  
735       and/or permit to prohibit the offender from performing certain  
736       acts or from engaging in the practice of pharmacy in a particular

737 manner for a term to be determined by the board;

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

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

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

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

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

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

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

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

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

768 (g) Public or private reprimand.

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

772 to the penalty imposed.

773 (2) Any person whose license, registration and/or permit has  
774 been suspended, revoked or restricted pursuant to this chapter,  
775 whether voluntarily or by action of the board, shall have the  
776 right to petition the board at reasonable intervals for  
777 reinstatement of such license, registration and/or permit. Such  
778 petition shall be made in writing and in the form prescribed by  
779 the board. Upon investigation and hearing, the board may, in its  
780 discretion, grant or deny such petition, or it may modify its  
781 original finding to reflect any circumstances which have changed  
782 sufficiently to warrant such modifications. The procedure for the  
783 reinstatement of a license, registration or permit that is  
784 suspended for being out of compliance with an order for support,  
785 as defined in Section 93-11-153, shall be governed by Section  
786 93-11-157 or 93-11-163, as the case may be.

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

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

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

807 shall certify the record of its proceedings, together with all  
808 documents and evidence, to the chancery court and the matter shall  
809 thereupon be heard in due course by the court, which shall review  
810 the record and make its determination thereon. The hearing on the  
811 matter may, in the discretion of the chancellor, be tried in  
812 vacation.

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

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

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

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



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

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

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

857 (a) Ownership;

858 (b) Location;

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

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

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

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

877           (a) Permanent closing;  
878           (b) Change of ownership, management, location or  
879 pharmacist in charge;  
880           (c) Any and all other matters and occurrences as the  
881 board may require by rule or regulation.

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

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

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

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

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

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

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

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

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

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

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

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

945           (b) Conduct that causes serious bodily or serious  
946 psychological injury to a resident of this state if the board has

947 referred the matter to the regulatory or licensing agency in the  
948 state in which the pharmacy is located and the regulatory or  
949 licensing agency fails to initiate an investigation within  
950 forty-five (45) days of the referral.

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

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

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

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

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

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

982 (3) The board representative may:

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

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

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

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

995 (a) Financial data;

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

997 (c) Pricing data.

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

1000 73-21-109. No person shall make use of the terms  
1001 "drugstore," "pharmacy," "apothecary" or words of similar meaning  
1002 which indicate that pharmaceutical services are performed in any  
1003 sign, letterhead or advertisement unless such person is a permit  
1004 holder as provided in Section 73-21-105. Any person violating  
1005 this section shall be guilty of a misdemeanor and, upon conviction  
1006 thereof, shall be punished by a fine of not less than One Hundred  
1007 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),  
1008 or by imprisonment in the county jail for not less than thirty  
1009 (30) days nor more than ninety (90) days, or by both.

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

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

1016 (2) Every person who acts or serves as a pharmacy technician

1017 in a pharmacy that is located in this state and permitted by the  
1018 board shall obtain a registration from the board. To obtain a  
1019 pharmacy technician registration the applicant must:

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

1022 (b) Be of good moral character; and

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

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

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

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

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

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

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

1047 73-21-115. (1) Every prescription written in this state by  
1048 a person authorized to issue such prescription shall be on  
1049 prescription forms containing two (2) lines for the prescriber's  
1050 signature. There shall be a signature line in the lower  
1051 right-hand corner of the prescription form beneath which shall be

1052 clearly imprinted the words "substitution permissible." There  
1053 shall be a signature line in the lower left-hand corner of the  
1054 prescription form beneath which shall be clearly imprinted the  
1055 words "dispense as written." The prescriber's signature on either  
1056 signature line shall validate the prescription and shall designate  
1057 approval or disapproval of product selection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1121           73-21-121. (1) Product selection as authorized by Sections



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

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

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

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

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

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

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

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

1155 73-21-123. Nothing in this chapter shall be construed to  
1156 prevent, or in any manner interfere with, or to require a permit

1157 for the sale of nonnarcotic nonprescription drugs which may be  
1158 lawfully sold under the United States Food, Drug and Cosmetic Act  
1159 (21 USCS 301 et seq. as now or hereafter amended) without a  
1160 prescription, nor shall any rule or regulation be adopted by the  
1161 board under the provisions of this chapter which shall require the  
1162 sale of nonprescription drugs by a licensed pharmacist of in a  
1163 pharmacy or otherwise apply to or interfere with the sale or  
1164 distribution of such drugs.

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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