

*****Pending***
AMENDMENT No. 1 PROPOSED TO**

House Bill NO. 895

By Senator(s) Committee

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

13 SECTION 1. As used in this act, the following terms have the
14 following meanings, unless the context requires otherwise:

15 (a) "Board" means the State Board of Pharmacy.

16 (b) "Health care facility" means any of the following:

17 (i) A hospital as defined under Section 41-9-3;

18 (ii) An institution for the aged or infirm as
19 defined in Section 43-11-1;

20 (iii) A hospice as defined in Section 41-85-3;

21 (c) "Hospital" has the meaning as defined in Section
22 41-9-3.

23 (d) "Nonprofit clinic" means a charitable nonprofit
24 corporation organized and operated under Section 79-11-101 et
25 seq., or any charitable organization not organized and not
26 operated for profit, that provides health care services to
27 indigent and uninsured persons. "Nonprofit clinic" does not
28 include a health care facility as defined in this section, or a
29 facility that is operated for profit.

30 (e) "Pharmacy" has the meaning as defined under Section
31 73-21-73.

32 (f) "Prescription drug" means any drug to which the

33 following applies:

34 (i) Under the federal Food, Drug, and Cosmetic
35 Act, as amended (21 USCS Section 301), the drug is required to
36 bear a label containing the legend, "Caution: Federal law
37 prohibits dispensing without prescription" or "Caution: Federal
38 law restricts this drug to use by or on the order of a licensed
39 veterinarian" or any similar restrictive statement, or the drug
40 may be dispensed only upon a prescription.

41 (ii) Under the Uniform Controlled Substances Law,
42 (Section 41-29-101 et seq.), the drug may be dispensed only upon a
43 prescription.

44 **SECTION 2.** (1) Not later than January 1, 2005, the State
45 Board of Pharmacy, the State Department of Health and the Division
46 of Medicaid jointly shall establish a plan for a drug repository
47 program to accept and dispense prescription drugs donated for the
48 purpose of being dispensed to individuals who meet the eligibility
49 standards established in the rules adopted by the board under
50 Section 5 of this act. The plan shall be submitted to the
51 Chairmen of the Public Health and Welfare Committees of the
52 Mississippi House of Representatives and Senate for their review.

53 Under the drug repository program:

54 (a) Only drugs in their original sealed and
55 tamper-evident packaging may be accepted and dispensed.

56 (b) The packaging must be unopened, except that drugs
57 packaged in single unit doses may be accepted and dispensed when
58 the outside packaging is opened if the single unit dose packaging
59 is undisturbed.

60 (c) The drugs must have been properly stored such that
61 the integrity of the medicine remains intact.

62 (d) A drug shall not be accepted or dispensed if there
63 is reason to believe that it is adulterated as described in
64 Section 75-29-3.

65 (e) Subject to the limitation specified in this
66 subsection, unused drugs dispensed for the purposes of the
67 Medicaid program may be accepted and dispensed.

68 (2) Nothing in subsection (1) of this section shall be
69 construed as prohibiting a pharmacy from accepting drugs that are
70 not eligible to be dispensed under the drug repository program,
71 for the proper disposal of those drugs.

72 (3) The drug repository program shall be fully implemented
73 not later than July 1, 2005.

74 **SECTION 3.** (1) Any person, including a drug manufacturer,
75 health care facility or government entity may donate prescription
76 drugs to the drug repository program. The drugs must be donated
77 at a pharmacy, hospital, or nonprofit clinic that participates in
78 the drug repository program under the criteria for participation
79 established in the rules adopted by the board under Section 5 of
80 this act.

81 (2) A pharmacy, hospital, or nonprofit clinic that
82 participates in the drug repository program shall dispense drugs
83 donated under this section to individuals who meet the eligibility
84 standards established in the rules adopted by the board under
85 Section 5 of this act, or to other government entities and
86 nonprofit private entities to be dispensed to individuals who meet
87 the eligibility standards. A drug may be dispensed only pursuant
88 to a prescription issued by a licensed practitioner as defined in
89 Section 73-21-73. A pharmacy, hospital, or nonprofit clinic that
90 accepts donated drugs shall comply with all applicable federal
91 laws and laws of this state dealing with storage and distribution
92 of dangerous drugs, and shall inspect all drugs before dispensing
93 them to determine that they are not adulterated. The pharmacy,
94 hospital, or nonprofit clinic may charge individuals receiving
95 donated drugs a handling fee established in accordance with the
96 rules adopted by the board under Section 5 of this act. Drugs
97 donated to the repository may not be resold.

98 **SECTION 4.** (1) As used in this section, the term "health
99 care professional" means any of the following:

100 (a) Physicians and osteopaths licensed under Section
101 73-25-1 et seq.;

102 (b) Podiatrists licensed under Section 73-27-1 et seq.;

103 (c) Dentists and dental hygienists licensed under
104 Section 73-9-1 et seq.;

105 (d) Optometrists licensed under Section 73-19-1 et
106 seq.;

107 (e) Pharmacists licensed under Section 73-21-71 et
108 seq.;

109 (f) Registered nurses and licensed practical nurses
110 licensed under Section 73-15-1 et seq.; and

111 (g) Physician assistants licensed under Section 73-26-1
112 et seq.

113 (2) The State Board of Pharmacy; the State Department of
114 Health; the Division of Medicaid; any person, including a drug
115 manufacturer, or health care facility or government entity that
116 donates drugs to the repository program; any pharmacy, hospital,
117 nonprofit clinic or health care professional that accepts or
118 dispenses drugs under the program; and any pharmacy, hospital, or
119 nonprofit clinic that employs a health care professional who
120 accepts or dispenses drugs under the program, shall not, be
121 subject to any of the following for matters related to donating,
122 accepting, or dispensing drugs under the program: criminal
123 prosecution; liability in tort or other civil action or
124 professional disciplinary action.

125 A drug manufacturer shall not, be subject to criminal
126 prosecution or liability in tort or other civil action for matters
127 related to the donation, acceptance, or dispensing of a drug
128 manufactured by the drug manufacturer that is donated by any
129 person, health care facility or government entity under the
130 program, including, but not limited to, liability for failure to
131 transfer or communicate product or consumer information, or for
132 improper storage or for the expiration date of the donated drug.

133 **SECTION 5.** (1) Not later than January 1, 2005, the State
134 Board of Pharmacy, in consultation with the State Department of
135 Health and the Division of Medicaid, shall adopt rules, in
136 accordance with the Administrative Procedures Law (Section 25-43-1
137 et seq.), governing the drug repository program that establish all

138 of the following:

139 (a) Eligibility criteria for pharmacies, hospitals, and
140 nonprofit clinics to receive and dispense donated drugs under the
141 program;

142 (b) Standards and procedures for accepting, safely
143 storing, and dispensing donated drugs;

144 (c) Standards and procedures for inspecting donated
145 drugs to determine that the original unit dose packaging is sealed
146 and tamper-evident and that the drugs are unadulterated, safe, and
147 suitable for dispensing;

148 (d) Eligibility standards based on economic need for
149 individuals to receive drugs;

150 (e) A means, such as an identification card, by which
151 an individual who is eligible to receive donated drugs may
152 demonstrate eligibility to the pharmacy, hospital, or nonprofit
153 clinic dispensing the drugs;

154 (f) A form that an individual receiving a drug from the
155 repository must sign before receiving the drug to confirm that the
156 individual understands the immunity provisions of the program, and
157 waiving all right to sue any individual or entity involved in the
158 program;

159 (g) A formula to determine the amount of a handling fee
160 that pharmacies, hospitals, and nonprofit clinics may charge to
161 drug recipients to cover restocking and dispensing costs;

162 (h) In addition, for drugs donated to the repository by
163 individuals:

164 (i) A list of drugs, arranged either by category
165 or by individual drug, that the repository will accept from
166 individuals;

167 (ii) A list of drugs, arranged either by category
168 or by individual drug, that the repository will not accept from
169 individuals. The list must include a statement as to why the drug
170 is ineligible for donation; and

171 (iii) A form each donor must sign stating that the
172 donor is the owner of the drugs and intends to voluntarily donate

173 them to the repository;

174 (i) In addition, for drugs donated to the repository by
175 health care facilities or government entities:

176 (i) A list of drugs, arranged either by category
177 or by individual drug, that the repository will accept from health
178 care facilities or government entities; and

179 (ii) A list of drugs, arranged either by category
180 or by individual drug, that the repository will not accept from
181 health care facilities or government entities. The list must
182 include a statement as to why the drug is ineligible for donation;
183 and

184 (j) Any other standards and procedures the board
185 considers appropriate.

186 (2) The provisions of paragraphs (h)(ii) and (i)(ii) of
187 subsection (1) of this section shall not be construed as
188 prohibiting a pharmacy from accepting drugs that are not eligible
189 to be dispensed under the drug repository program, for the proper
190 disposal of those drugs.

191 **SECTION 6.** This act shall take effect and be in force from
192 and after July 1, 2003.

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

1 AN ACT TO ESTABLISH UNDER THE DIRECTION OF THE STATE BOARD OF
2 PHARMACY A DRUG REPOSITORY PROGRAM TO ACCEPT AND DISPENSE
3 PRESCRIPTION DRUGS DONATED FOR THE PURPOSE OF BEING DISPENSED TO
4 INDIVIDUALS WHO MEET CERTAIN ELIGIBILITY STANDARDS; TO PROVIDE
5 THAT THE PROGRAM SHALL BE DEVELOPED JOINTLY BY THE STATE BOARD OF
6 PHARMACY, THE STATE DEPARTMENT OF HEALTH AND THE DIVISION OF
7 MEDICAID; TO PROVIDE THE CRITERIA FOR DRUGS TO BE ACCEPTED AND
8 DISPENSED UNDER THE PROGRAM; TO PROVIDE CERTAIN IMMUNITY TO
9 PARTICIPANTS IN THE PROGRAM; TO PROVIDE THAT THE PROGRAM WILL BE
10 FULLY IMPLEMENTED NOT LATER THAN JULY 1, 2005; AND FOR RELATED
11 PURPOSES.