

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1262

1 AN ACT TO AMEND SECTION 73-21-103, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE AMOUNTS OF THE MONETARY PENALTIES THAT THE STATE  
3 BOARD OF PHARMACY MAY IMPOSE AGAINST LICENSE AND PERMIT HOLDERS  
4 UNDER THE PHARMACY PRACTICE ACT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 73-21-103, Mississippi Code of 1972, is  
7 amended as follows:

8 73-21-103. (1) Upon the finding of the existence of grounds  
9 for action against any permitted facility or discipline of any  
10 person holding a license, registration or permit, seeking a  
11 license, registration or permit, or seeking to renew a license or  
12 permit under the provisions of this chapter, the board may impose  
13 one or more of the following penalties:

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

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

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

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

23 (i) For the first violation, a monetary penalty of  
24 not less than Two Hundred Fifty Dollars (\$250.00) nor more than  
25 One Thousand Dollars (\$1,000.00) for each violation;

26 (ii) For the second violation and subsequent  
27 violations, a monetary penalty of not less than Five Hundred

28 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00)  
29 for each violation.

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

33 (iii) The board may assess a monetary penalty for  
34 those reasonable costs that are expended by the board in the  
35 investigation and conduct of a proceeding for licensure  
36 revocation, suspension or restriction, including, but not limited  
37 to, the cost of process service, court reporters, expert witnesses  
38 and investigators.

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

42 (iv) The board may impose a monetary penalty for  
43 those facilities/businesses registered with the Pharmacy Board as  
44 wholesalers/manufacturers of not less than Three Hundred Dollars  
45 (\$300.00) per violation and not more than Fifty Thousand Dollars  
46 (\$50,000.00) per violation;

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

49 (f) Placement of the offender on probation and  
50 supervision by the board for a period to be determined by the  
51 board;

52 (g) Public or private reprimand.

53 Whenever the board imposes any penalty under this subsection,  
54 the board may require rehabilitation and/or additional education  
55 as the board may deem proper under the circumstances, in addition  
56 to the penalty imposed.

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

61 reinstatement of such license, registration and/or permit. Such  
62 petition shall be made in writing and in the form prescribed by  
63 the board. Upon investigation and hearing, the board may, in its  
64 discretion, grant or deny such petition, or it may modify its  
65 original finding to reflect any circumstances which have changed  
66 sufficiently to warrant such modifications. The procedure for the  
67 reinstatement of a license, registration or permit that is  
68 suspended for being out of compliance with an order for support,  
69 as defined in Section 93-11-153, shall be governed by Section  
70 93-11-157 or 93-11-163, as the case may be.

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

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

80 (5) When payment of a monetary penalty assessed and levied  
81 by the board against a licensee, registrant or permit holder in  
82 accordance with this section is not paid by the licensee,  
83 registrant or permit holder when due under this section, the board  
84 shall have the power to institute and maintain proceedings in its  
85 name for enforcement of payment in the chancery court of the  
86 county and judicial district of residence of the licensee,  
87 registrant or permit holder, or if the licensee, registrant or  
88 permit holder is a nonresident of the State of Mississippi, in the  
89 Chancery Court of the First Judicial District of Hinds County,  
90 Mississippi. When such proceedings are instituted, the board  
91 shall certify the record of its proceedings, together with all  
92 documents and evidence, to the chancery court and the matter shall  
93 thereupon be heard in due course by the court, which shall review

94 the record and make its determination thereon. The hearing on the  
95 matter may, in the discretion of the chancellor, be tried in  
96 vacation.

97 (6) The board shall develop and implement a uniform penalty  
98 policy which shall set the minimum and maximum penalty for any  
99 given violation of board regulations and laws governing the  
100 practice of pharmacy. The board shall adhere to its uniform  
101 penalty policy except in such cases where the board specifically  
102 finds, by majority vote, that a penalty in excess of, or less  
103 than, the uniform penalty is appropriate. Such vote shall be  
104 reflected in the minutes of the board and shall not be imposed  
105 unless such appears as having been adopted by the board.

106 **SECTION 2.** This act shall take effect and be in force from  
107 and after July 1, 2005.