

By: Representative Warren

To: Public Health and Human Services

HOUSE BILL NO. 542

1 AN ACT TO AMEND SECTION 73-21-69, MISSISSIPPI CODE OF 1972,  
2 TO EXTEND THE DATE OF REPEAL ON THE PROVISIONS OF LAW THAT CREATE  
3 THE STATE BOARD OF PHARMACY AND PRESCRIBE ITS DUTIES AND POWERS;  
4 TO REENACT SECTIONS 73-21-71 THROUGH 73-21-123, MISSISSIPPI CODE  
5 OF 1972, WHICH CREATE THE STATE BOARD OF PHARMACY AND PRESCRIBE  
6 ITS DUTIES AND POWERS; AND FOR RELATED PURPOSES.

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

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

10 73-21-69. Sections 73-21-71 through 73-21-123, which create  
11 the State Board of Pharmacy and prescribe its duties and powers,  
12 shall stand repealed on July 1, 2008.

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

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

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

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

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

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

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

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

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

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

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

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

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

61 (i) "Drug" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

226 Association, with input from the Magnolia Pharmaceutical Society  
227 and other pharmacist associations or societies. Of the members  
228 appointed, one (1) shall, at the time of appointment, have had  
229 five (5) years' experience as a pharmacist at a facility holding  
230 an institutional permit, and one (1) shall, at the time of  
231 appointment, have had five (5) years' experience as a pharmacist  
232 at a facility holding a retail permit. Any person appointed to  
233 the board shall be limited to two (2) full terms of office during  
234 any fifteen-year period, including any member serving on May 14,  
235 1992.

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

247 (a) The term of the member from the First Congressional  
248 District shall expire on July 1, 1984; and from and after July 1,  
249 1996, this appointment shall be designated as Post 1.

250 (b) The term of the member from the Second  
251 Congressional District shall expire on July 1, 1988; and from and  
252 after July 1, 1996, this appointment shall be designated as Post  
253 2.

254 (c) The term of the member from the Third Congressional  
255 District shall expire on July 1, 1986; and from and after July 1,  
256 1996, this appointment shall be designated as Post 3.

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



259 after July 1, 1996, this appointment shall be designated as Post  
260 4.

261 (e) The term of the member from the Fifth Congressional  
262 District shall expire on July 1, 1987; and from and after July 1,  
263 1996, this appointment shall be designated as Post 5.

264 (f) The term of one (1) of the members from the state  
265 at large shall expire on July 1, 1985; and from and after July 1,  
266 1996, this appointment shall be designated as Post 6.

267 (g) The term of the other member from the state at  
268 large shall expire on July 1, 1988; and from and after July 1,  
269 1996, this appointment shall be designated as Post 7.

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

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

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

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

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

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

294 (d) Be actively engaged full time in the practice of  
295 pharmacy in Mississippi.

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

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

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

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

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

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

325 (5) A majority of the members of the board shall constitute  
326 a quorum for the conduct of the meeting and all actions of the  
327 board shall be by a majority.

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

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

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

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

349 (3) The duties and responsibilities of the executive  
350 director shall be defined by rules and regulations prescribed by  
351 the board.

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

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

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

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

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

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

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

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

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

399 (5) All persons licensed to practice pharmacy prior to July  
400 1, 1991, by the State Board of Pharmacy under Section 73-21-89  
401 shall continue to be licensed under the provisions of Section  
402 73-21-91.

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

405 73-21-85. (1) To obtain a license to engage in the practice  
406 of pharmacy by examination, or by score transfer, the applicant  
407 shall:

408 (a) Have submitted a written application on the form  
409 prescribed by the board;

410 (b) Be of good moral character;

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

414 (d) Have successfully passed an examination approved by  
415 the board;

416 (e) Have paid all fees specified by the board for  
417 examination, not to exceed the cost to the board of administering  
418 the examination;

419 (f) Have paid all fees specified by the board for  
420 licensure; and

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

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

431           (a) Have submitted a written application on the form  
432 prescribed by the board;

433           (b) Be of good moral character;

434           (c) Have graduated and been granted a pharmacy degree  
435 from a college or school of pharmacy recognized and approved by  
436 the National Association of Boards of Pharmacy's Foreign Pharmacy  
437 Graduate Examination Committee;

438           (d) Have paid all fees specified by the board for  
439 examination, not to exceed the cost to the board of administering  
440 the examination;

441           (e) Have successfully passed an examination approved by  
442 the board;

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

445           (g) Have paid all fees specified by the board for  
446 licensure.

447           (3) Each application or filing made under this section shall  
448 include the social security number(s) of the applicant in  
449 accordance with Section 93-11-64.

450           (4) To insure that all applicants are of good moral  
451 character, the board shall conduct a criminal history records  
452 check on all applicants for a license. In order to determine the  
453 applicant's suitability for licensing, the applicant shall be  
454 fingerprinted. The board shall submit the fingerprints to the  
455 Department of Public Safety for a check of the state criminal

456 records and forwarded to the Federal Bureau of Investigation for a  
457 check of the national criminal records. The Department of Public  
458 Safety shall disseminate the results of the state check and the  
459 national check to the board for a suitability determination. The  
460 board shall be authorized to collect from the applicant the amount  
461 of the fee that the Department of Public Safety charges the board  
462 for the fingerprinting, whether manual or electronic, and the  
463 state and national criminal history records checks.

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

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

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

471           (b) Be of good moral character;

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

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

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

482       (2) No applicant shall be eligible for licensure by  
483 reciprocity or license transfer or unless the state in which the  
484 applicant was initially licensed also grants a reciprocal license  
485 or transfer license to pharmacists licensed by this state under  
486 like circumstances and conditions.

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

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

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

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

497 (b) Written application for licensure; and

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

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

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

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

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

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

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

515 (c) Pay such renewal fees as required by the board, not  
516 to exceed Two Hundred Dollars (\$200.00) for each biennial  
517 licensing period, provided that the board may add a surcharge of  
518 not more than Five Dollars (\$5.00) to a license renewal fee to  
519 fund a program to aid impaired pharmacists or pharmacy students.



520 Any pharmacist license renewal received postmarked after December  
521 31 of the renewal period will be returned and a Fifty Dollar  
522 (\$50.00) late renewal fee will be assessed prior to renewal.

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

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

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

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

548 (2) The examination shall be prepared to measure the  
549 competence of the applicant to engage in the practice of pharmacy.  
550 The board may employ and cooperate with any organization or  
551 consultant in the preparation and grading of an appropriate  
552 examination, but shall retain the sole discretion and

553 responsibility of determining which applicants have successfully  
554 passed such an examination.

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

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

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

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

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

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

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

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

578 (i) A felony;

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

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

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

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

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

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

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

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

597 (j) Misappropriation of any prescription drug;

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

601 (l) The unlawful or unauthorized possession of a  
602 controlled substance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

751 Money collected by the board under Section 73-21-103,  
752 paragraph (1)(d)(i), (ii) and (iv) shall be deposited to the  
753 credit of the State General Fund of the State Treasury;

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

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

763 (iv) The board may impose a monetary penalty for  
764 those facilities/businesses registered with the Pharmacy Board as  
765 wholesalers/manufacturers of not less than Three Hundred Dollars  
766 (\$300.00) per violation and not more than Fifty Thousand Dollars  
767 (\$50,000.00) per violation;

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

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

773 (g) Public or private reprimand.

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

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



782 reinstatement of such license, registration and/or permit. Such  
783 petition shall be made in writing and in the form prescribed by  
784 the board. Upon investigation and hearing, the board may, in its  
785 discretion, grant or deny such petition, or it may modify its  
786 original finding to reflect any circumstances which have changed  
787 sufficiently to warrant such modifications. The procedure for the  
788 reinstatement of a license, registration or permit that is  
789 suspended for being out of compliance with an order for support,  
790 as defined in Section 93-11-153, shall be governed by Section  
791 93-11-157 or 93-11-163, as the case may be.

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

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

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

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

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

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

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

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

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

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

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

862                   (a) Ownership;

863                   (b) Location;

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

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

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

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

882 (a) Permanent closing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

976 (a) Drug storage and security;

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

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

987 (3) The board representative may:

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

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

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

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

1000 (a) Financial data;

1001 (b) Sales data other than shipment data; or

1002 (c) Pricing data.

1003 **SECTION 22.** Section 73-21-108, Mississippi Code of 1972, is  
1004 reenacted as follows:

1005 73-21-108. (1) **Definitions.** For the purposes of this  
1006 section:

1007 (a) "Home medical equipment" means technologically  
1008 sophisticated medical equipment and devices usable in a home care  
1009 setting, including, but not limited to:

1010 (i) Oxygen for human consumption, oxygen  
1011 concentrators and/or oxygen delivery systems and equipment;  
1012 (ii) Ventilators;  
1013 (iii) Respiratory disease management devices;  
1014 (iv) Electronic and computer driven wheelchairs  
1015 and seating systems;  
1016 (v) Apnea monitors;  
1017 (vi) Transcutaneous electrical nerve stimulator  
1018 (TENS) units;  
1019 (vii) Low air loss cutaneous pressure management  
1020 devices;  
1021 (viii) Sequential compression devices;  
1022 (ix) Neonatal home phototherapy devices;  
1023 (x) Feeding pumps; and  
1024 (xi) Other similar equipment as defined in  
1025 regulations adopted by the board.

1026 The term "home medical equipment" does not include medical  
1027 equipment used in the normal course of treating patients by  
1028 hospitals, hospices, long-term care facilities or home health  
1029 agencies, or medical equipment used or dispensed by health care  
1030 professionals licensed by the State of Mississippi if the  
1031 professional is practicing within the scope of his or her  
1032 professional practice. In addition, the term does not include  
1033 items such as upper and lower extremity prosthetics, canes,  
1034 crutches, walkers, bathtub grab bars, standard wheelchairs,  
1035 commode chairs and bath benches.

1036 (b) "Home medical equipment services" means the  
1037 delivery, installation, maintenance, replacement, and/or  
1038 instruction in the use of home medical equipment, used by a sick  
1039 or disabled individual, to allow the individual to be cared for  
1040 and maintained in a home or noninstitutional environment.

1041 (c) "Medical gas" means those gases and liquid oxygen  
1042 intended for human consumption.



1043 (d) "Order" means an order issued by a licensed  
1044 practitioner legally authorized to order home medical equipment  
1045 and/or medical gases.

1046 (2) **Permit required.** (a) No person, business or entity  
1047 located in this state or outside of this state that is subject to  
1048 this section shall sell, rent or provide or offer to sell, rent or  
1049 provide directly to patients in this state any home medical  
1050 equipment, legend devices, and/or medical gas unless such person,  
1051 business or entity first obtains a Medical Equipment Supplier  
1052 Permit from the board.

1053 (b) The permitting requirements of this section apply  
1054 to all persons, companies, agencies and other business entities  
1055 that are in the business of supplying home medical equipment to  
1056 patients in their places of residence and that bill the patient or  
1057 the patient's insurance, Medicare, Medicaid or other third party  
1058 payor for the rent or sale of that equipment.

1059 (c) The board shall require a separate permit for each  
1060 facility location directly or indirectly owned or operated in this  
1061 state.

1062 (d) The application for a permit shall be made to the  
1063 board on a form supplied by the board and shall be accompanied by  
1064 a fee of not more than Three Hundred Dollars (\$300.00), as  
1065 prescribed by the board. Once issued, every permit must be  
1066 renewed annually, and the renewal fee shall be not more than One  
1067 Hundred Seventy-five Dollars (\$175.00), as prescribed by the  
1068 board.

1069 (e) All permits issued under this section shall expire  
1070 annually on June 30 of each year. Applications for renewal must  
1071 be made to the board on or before June 30 and must be accompanied  
1072 by the fee as prescribed by the board. A late renewal fee of One  
1073 Hundred Dollars (\$100.00) shall be added to all renewal  
1074 applications received by the board after June 30 of each renewal  
1075 period. The permit shall become void if the renewal application,

1076 renewal fee and the late renewal fee are not received by the board  
1077 by September 30 of each year.

1078         (3) **Exemptions.** (a) The permitting requirements of this  
1079 section do not apply to the following entities or practitioners  
1080 unless they have a separate business entity, company, corporation  
1081 or division that is in the business of providing home medical  
1082 equipment for sale or rent to patients at their places of  
1083 residence:

1084                     (i) Home health agencies;  
1085                     (ii) Hospitals;  
1086                     (iii) Wholesalers and/or manufacturers;  
1087                     (iv) Medical doctors, physical therapists,  
1088 respiratory therapists, occupational therapists, speech  
1089 pathologists, optometrists, chiropractors and podiatrists who use  
1090 home medical equipment and/or legend devices in their individual  
1091 practices;  
1092                     (v) Pharmacies;  
1093                     (vi) Hospice programs;  
1094                     (vii) Nursing homes and/or long-term care  
1095 facilities;  
1096                     (viii) Veterinarians; dentists; and emergency  
1097 medical services.

1098         (b) Although community pharmacies are exempt from the  
1099 permitting requirements of this section, they shall be subject to  
1100 the same regulations that are applicable to permitted businesses  
1101 or entities for the sale or rental of home medical equipment  
1102 covered by this section.

1103         (c) Nothing in this section shall prohibit trained  
1104 individuals from using oxygen, liquid oxygen and/or legend devices  
1105 in emergencies.

1106         (d) Nothing in this section shall prohibit the  
1107 prehospital emergency administration of oxygen by licensed health  
1108 care providers, emergency medical technicians, first responders,

1109 fire fighters, law enforcement officers and other emergency  
1110 personnel trained in the proper use of emergency oxygen.

1111 (4) **Order required.** Home medical equipment suppliers shall  
1112 not provide any home medical equipment to a patient without a  
1113 valid order from an authorized licensed practitioner.

1114 (5) **Regulations.** The board shall adopt regulations for the  
1115 distribution and sale or rental of home medical equipment, legend  
1116 devices and medical gases that promote the public health and  
1117 welfare and comply with at least the minimum standards, terms and  
1118 conditions of federal laws and regulations. The regulations shall  
1119 include, without limitation:

1120 (a) Minimum information from each home medical  
1121 equipment, legend device and medical gas supplier required for  
1122 permitting and renewal permits;

1123 (b) Minimum qualifications of persons who engage in the  
1124 distribution of home medical equipment;

1125 (c) Appropriate education, training or experience of  
1126 persons employed by home medical equipment suppliers;

1127 (d) Minimum standards for storage of home medical  
1128 equipment;

1129 (e) Minimum requirements for the establishment and  
1130 maintenance of all records for the sale, rental and servicing of  
1131 home medical equipment; and

1132 (f) Minimum standards of operation and professional  
1133 conduct.

1134 (6) **Medical Equipment Advisory Committee to the board.**

1135 (a) A Medical Equipment Advisory Committee (MEAC),  
1136 composed of three (3) members selected by the Mississippi  
1137 Association of Medical Equipment Suppliers and approved by the  
1138 board, shall review and make recommendations to the board  
1139 regarding all regulations dealing with home medical equipment,  
1140 legend devices and medical gases that are proposed by the board  
1141 and before they are adopted by the board.

1142           (b) All MEAC members must have been actively involved  
1143 in the home medical equipment business for a minimum of five (5)  
1144 years before the selection to the committee and shall hold and  
1145 maintain, in good standing, a permit issued by the board under  
1146 this section.

1147           (c) The MEAC members shall meet at least quarterly and  
1148 review all home medical equipment suppliers' inspection reports.  
1149 All complaints and reports of investigations of violations of law  
1150 or regulations regarding home medical equipment, legend devices  
1151 and medical gases shall first be reviewed by the MEAC. After  
1152 review, the MEAC may make recommendations to the board's  
1153 Investigations Review Committee regarding further administrative  
1154 action by the board.

1155           (d) The MEAC shall keep and maintain minutes of all  
1156 meetings of the MEAC and shall provide copies of the minutes to  
1157 the board on a quarterly basis.

1158           (7) **Revocation, Suspension or Restriction of Permit and**  
1159 **Penalties.**

1160           (a) The board may revoke, suspend, restrict or refuse  
1161 to issue or renew a permit or impose a monetary penalty, in  
1162 accordance with Section 73-21-103 except that the monetary penalty  
1163 shall not exceed Ten Thousand Dollars (\$10,000.00) per violation,  
1164 if the business or holder of a permit or applicant for a permit  
1165 issued under this section has committed or is found guilty by the  
1166 board of any of the following:

1167                   (i) Violation of any federal, state or local law  
1168 or regulations relating to home medical equipment, legend devices  
1169 or medical gases.

1170                   (ii) Violation of any of the provisions of this  
1171 section or regulations adopted under this section.

1172                   (iii) Commission of an act or engaging in a course  
1173 of conduct that constitutes a clear and present danger to the  
1174 public health and safety.

1175 (iv) Filing a claim or assisting in the filing of  
1176 a claim for reimbursement for home medical equipment or home  
1177 medical equipment services that were not provided or that were not  
1178 authorized to be provided.

1179 (v) Failure to comply with any lawful order of the  
1180 board.

1181 (b) Disciplinary action by the board against a business  
1182 or any person holding a permit under this section shall be in  
1183 accordance with Section 73-21-99.

1184 **SECTION 23.** Section 73-21-109, Mississippi Code of 1972, is  
1185 reenacted as follows:

1186 73-21-109. No person shall make use of the terms  
1187 "drugstore," "pharmacy," "apothecary" or words of similar meaning  
1188 which indicate that pharmaceutical services are performed in any  
1189 sign, letterhead or advertisement unless such person is a permit  
1190 holder as provided in Section 73-21-105. Any person violating  
1191 this section shall be guilty of a misdemeanor and, upon conviction  
1192 thereof, shall be punished by a fine of not less than One Hundred  
1193 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),  
1194 or by imprisonment in the county jail for not less than thirty  
1195 (30) days nor more than ninety (90) days, or by both.

1196 **SECTION 24.** Section 73-21-111, Mississippi Code of 1972, is  
1197 reenacted as follows:

1198 73-21-111. (1) The board shall make, adopt, amend and  
1199 repeal from time to time such rules and regulations for the  
1200 regulation of supportive personnel as may be deemed necessary by  
1201 the board.

1202 (2) Every person who acts or serves as a pharmacy technician  
1203 in a pharmacy that is located in this state and permitted by the  
1204 board shall obtain a registration from the board. To obtain a  
1205 pharmacy technician registration the applicant must:

1206 (a) Have submitted a written application on a form(s)  
1207 prescribed by the board; and

1208                   (b) Be of good moral character; and  
1209                   (c) Have paid the initial registration fee not to  
1210 exceed One Hundred Dollars (\$100.00).

1211           (3) Each pharmacy technician shall renew his or her  
1212 registration annually. To renew his or her registration, a  
1213 technician must:

1214                   (a) Submit an application on a form prescribed by the  
1215 board; and

1216                   (b) Pay a renewal fee not to exceed One Hundred Dollars  
1217 (\$100.00) for each annual registration period. The board may add  
1218 a surcharge of not more than Five Dollars (\$5.00) to the  
1219 registration renewal fee to assist in funding a program that  
1220 assists impaired pharmacists, pharmacy students and pharmacy  
1221 technicians.

1222           (4) To insure that all applicants are of good moral  
1223 character, the board shall conduct a criminal history records  
1224 check on all applicants for a license. In order to determine the  
1225 applicant's suitability for licensing, the applicant shall be  
1226 fingerprinted. The board shall submit the fingerprints to the  
1227 Department of Public Safety for a check of the state criminal  
1228 records and forwarded to the Federal Bureau of Investigation for a  
1229 check of the national criminal records. The Department of Public  
1230 Safety shall disseminate the results of the state check and the  
1231 national check to the board for a suitability determination. The  
1232 board shall be authorized to collect from the applicant the amount  
1233 of the fee that the Department of Public Safety charges the board  
1234 for the fingerprinting, whether manual or electronic, and the  
1235 state and national criminal history records checks.

1236           **SECTION 25.** Section 73-21-113, Mississippi Code of 1972, is  
1237 reenacted as follows:

1238           73-21-113. All fees received by the board from examinations,  
1239 licenses, permits and monetary penalties, and any other funds  
1240 received by the board, shall be paid to the State Treasurer, who

1241 shall issue receipts therefor and deposit such funds in the State  
1242 Treasury in a special fund to the credit of the board. All such  
1243 funds shall be expended only pursuant to appropriation approved by  
1244 the Legislature and as provided by law.

1245         **SECTION 26.** Section 73-21-115, Mississippi Code of 1972, is  
1246 reenacted as follows:

1247         73-21-115. (1) Every prescription written in this state by  
1248 a person authorized to issue such prescription shall be on  
1249 prescription forms containing two (2) lines for the prescriber's  
1250 signature. There shall be a signature line in the lower  
1251 right-hand corner of the prescription form beneath which shall be  
1252 clearly imprinted the words "substitution permissible." There  
1253 shall be a signature line in the lower left-hand corner of the  
1254 prescription form beneath which shall be clearly imprinted the  
1255 words "dispense as written." The prescriber's signature on either  
1256 signature line shall validate the prescription and shall designate  
1257 approval or disapproval of product selection.

1258         (2) If a prescription form which does not contain the two  
1259 (2) signature lines required in subsection (1) of this section is  
1260 utilized by the prescriber, he shall write in his own handwriting  
1261 the words "dispense as written" thereupon to prevent product  
1262 selection.

1263         (3) A pharmacist licensed by the Mississippi State Board of  
1264 Pharmacy may dispense a one-time emergency dispensing of a  
1265 prescription of up to a seventy-two-hour supply of a prescribed  
1266 medication in the event the pharmacist is unable to contact the  
1267 prescriber to obtain refill authorization, provided that:

1268                 (a) The prescription is not for a controlled substance;

1269                 (b) In the pharmacist's professional judgment, the  
1270 interruption of therapy might reasonably produce undesirable  
1271 health consequences or may cause physical or mental discomfort;

1272 (c) The dispensing pharmacist notifies the prescriber  
1273 or his agent of the emergency dispensing within seven (7) working  
1274 days after the one-time emergency dispensing;

1275 (d) The pharmacist properly records the dispensing as a  
1276 separate nonrefillable prescription. Said document shall be filed  
1277 as is required of all other prescription records. This document  
1278 shall be serially numbered and contain all information required of  
1279 other prescriptions. In addition it shall contain the number of  
1280 the prescription from which it was refilled; and

1281 (e) The pharmacist shall record on the new document the  
1282 circumstances which warrant this emergency dispensing.

1283 This emergency dispensing shall be done only in the permitted  
1284 facility which contains the nonrefillable prescription.

1285 **SECTION 27.** Section 73-21-117, Mississippi Code of 1972, is  
1286 reenacted as follows:

1287 73-21-117. (1) A pharmacist may select a generic equivalent  
1288 drug product only when such selection results in lower cost to the  
1289 purchaser, unless product selection is expressly prohibited by the  
1290 prescriber.

1291 (2) A pharmacist shall select a generic equivalent drug  
1292 product when:

1293 (a) The purchaser requests the selection of a generic  
1294 equivalent drug product;

1295 (b) The prescriber has not expressly prohibited product  
1296 selection; and

1297 (c) Product selection will result in lower cost to the  
1298 purchaser.

1299 Before product selection is made, the pharmacist shall advise  
1300 the purchaser of his prerogatives under this subsection.

1301 (3) When requested by the purchaser to dispense the drug  
1302 product as ordered by the prescriber, a pharmacist shall not  
1303 select a generic equivalent drug product.



1304           **SECTION 28.** Section 73-21-119, Mississippi Code of 1972, is  
1305 reenacted as follows:

1306           73-21-119. (1) The label of the container of any drug  
1307 product which is sold within the State of Mississippi for resale  
1308 at retail and which requires a prescription to be dispensed at  
1309 retail shall contain at a minimum the name of the manufacturer of  
1310 the final dosage unit, expiration date if applicable, batch or lot  
1311 number and national drug code.

1312           (2) Whenever product selection is made, the pharmacist shall  
1313 indicate on the label of the dispensed container the initials  
1314 "G.E." and the proprietary name of the product dispensed or the  
1315 generic name of the product dispensed and its manufacturer either  
1316 written in full or appropriately abbreviated, unless the  
1317 prescriber indicates that the name of the drug product shall not  
1318 appear on the label.

1319           **SECTION 29.** Section 73-21-121, Mississippi Code of 1972, is  
1320 reenacted as follows:

1321           73-21-121. (1) Product selection as authorized by Sections  
1322 73-21-115 through 73-21-119 shall not constitute evidence of  
1323 negligence by the dispensing pharmacist when such product  
1324 selection is in accordance with reasonable and prudent pharmacy  
1325 practice. No prescriber shall be liable for civil damages or in  
1326 any criminal prosecution arising from the incorrect product  
1327 selection by a pharmacist.

1328           (2) Any person having knowledge relating to a pharmacist or  
1329 to a pharmacy student which might provide grounds for disciplinary  
1330 action by the board may report relevant facts to the board, and  
1331 shall by reason of reporting such facts in good faith be immune  
1332 from civil liability.

1333           (3) Any person furnishing information in the form of data,  
1334 reports or records to the board or to a pharmacist organization  
1335 approved by the board to receive such information, where such  
1336 information is furnished for the purpose of aiding a pharmacist or

1337 a pharmacy student impaired by chemical abuse or by mental or by  
1338 physical illness, shall by reason of furnishing such information  
1339 in good faith be immune from civil liability.

1340 (4) The records of the board or the records of a pharmacist  
1341 organization approved by the board to aid pharmacists or pharmacy  
1342 students impaired by chemical abuse, where such records relate to  
1343 the impairment, shall be confidential and are not considered open  
1344 records; provided, however, the board may disclose this  
1345 confidential information only:

1346 (a) In a disciplinary hearing before the board, or in  
1347 an appeal of an action or order of the board;

1348 (b) To the pharmacist licensing or disciplinary  
1349 authorities of other jurisdictions in the case of a pharmacist who  
1350 is licensed in, or seeking transfer to, another state; or

1351 (c) Pursuant to an order of a court of competent  
1352 jurisdiction.

1353 **SECTION 30.** Section 73-21-123, Mississippi Code of 1972, is  
1354 reenacted as follows:

1355 73-21-123. Nothing in this chapter shall be construed to  
1356 prevent, or in any manner interfere with, or to require a permit  
1357 for the sale of nonnarcotic nonprescription drugs which may be  
1358 lawfully sold under the United States Food, Drug and Cosmetic Act  
1359 (21 USCS 301 et seq. as now or hereafter amended) without a  
1360 prescription, nor shall any rule or regulation be adopted by the  
1361 board under the provisions of this chapter which shall require the  
1362 sale of nonprescription drugs by a licensed pharmacist of in a  
1363 pharmacy or otherwise apply to or interfere with the sale or  
1364 distribution of such drugs.

1365 **SECTION 31.** This act shall take effect and be in force from  
1366 and after July 1, 2006.