

By: Senator(s) Nunnelee, Mettetal

To: Public Health and Welfare

SENATE BILL NO. 2564

1 AN ACT TO REENACT SECTIONS 73-21-71 THROUGH 73-21-123,
 2 MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI PHARMACY
 3 PRACTICE ACT; TO AMEND SECTION 73-21-69, MISSISSIPPI CODE OF 1972,
 4 TO EXTEND THE AUTOMATIC REPEALER ON THE MISSISSIPPI PHARMACY
 5 PRACTICE ACT; TO AMEND SECTION 73-21-79, MISSISSIPPI CODE OF 1972,
 6 TO CLARIFY CERTAIN CONDITIONS ON THE RESPONSIBILITIES OF THE
 7 EXECUTIVE DIRECTOR OF THE STATE BOARD OF PHARMACY; TO AMEND
 8 SECTION 73-21-85, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE
 9 BOARD OF PHARMACY TO CONDUCT CRIMINAL RECORD BACKGROUND CHECKS ON
 10 STUDENTS AT THE UNIVERSITY OF MISSISSIPPI SCHOOL OF PHARMACY; TO
 11 AMEND SECTION 73-21-91, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
 12 ANNUAL RENEWAL FEES; TO CODIFY SECTION 73-21-125, MISSISSIPPI CODE
 13 OF 1972, TO AUTHORIZE AND DIRECT THE BOARD OF PHARMACY TO DEVELOP
 14 AND IMPLEMENT A COMPUTER PROGRAM TO TRACK PRESCRIPTIONS FOR
 15 CONTROLLED SUBSTANCES AND TO REPORT ILLEGAL ACTIVITY; AND FOR
 16 RELATED PURPOSES.

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

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

20 73-21-69. Sections 73-21-71 through 73-21-123, which create
 21 the State Board of Pharmacy and prescribe its duties and powers,
 22 shall stand repealed on July 1, 2011.

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

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

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

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

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

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

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

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

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

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

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

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

71 (i) "Drug" shall mean:

72 (i) Articles recognized as drugs in the official
73 United States Pharmacopeia, official National Formulary, official
74 Homeopathic Pharmacopeia, other drug compendium or any supplement
75 to any of them;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

141 (u) "Nonprescription drugs" shall mean nonnarcotic
142 medicines or drugs that may be sold without a prescription and are
143 prepackaged and labeled for use by the consumer in accordance with
144 the requirements of the statutes and regulations of this state and
145 the federal government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

211 (ii) "Supportive personnel" or "pharmacist technician"
212 shall mean those individuals utilized in pharmacies whose
213 responsibilities are to provide nonjudgmental technical services
214 concerned with the preparation and distribution of drugs under the
215 direct supervision and responsibility of a pharmacist.

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

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

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

229 73-21-75. (1) The State Board of Pharmacy created by former
230 Section 73-21-9 is hereby continued and reconstituted as follows:
231 The board shall consist of seven (7) appointed members. At least
232 one (1) appointment shall be made from each congressional
233 district. Each appointed member of the board shall be appointed
234 by the Governor, with the advice and consent of the Senate, from a
235 list of five (5) names submitted by the Mississippi Pharmacists
236 Association, with input from the Magnolia Pharmaceutical Society
237 and other pharmacist associations or societies. Of the members
238 appointed, one (1) shall, at the time of appointment, have had
239 five (5) years' experience as a pharmacist at a facility holding
240 an institutional permit, and one (1) shall, at the time of
241 appointment, have had five (5) years' experience as a pharmacist
242 at a facility holding a retail permit. Any person appointed to
243 the board shall be limited to two (2) full terms of office during
244 any fifteen-year period, including any member serving on May 14,
245 1992.

246 (2) The members of the board appointed and serving prior to
247 July 1, 1983, whose terms have not expired by July 1, 1983, shall
248 serve the balance of their terms as members of the reconstituted
249 board, and they shall be considered to be from the same
250 congressional districts from which they were originally appointed
251 if they still reside therein, even if the district boundaries have
252 changed subsequent to their original appointments. The Governor
253 shall appoint the remaining members of the reconstituted board in
254 the manner prescribed in subsection (1) of this section on July 1,
255 1983. The initial members of the reconstituted board shall serve
256 terms of office as follows:

257 (a) The term of the member from the First Congressional
258 District shall expire on July 1, 1984; and from and after July 1,
259 1996, this appointment shall be designated as Post 1.

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

262 after July 1, 1996, this appointment shall be designated as Post
263 2.

264 (c) The term of the member from the Third Congressional
265 District shall expire on July 1, 1986; and from and after July 1,
266 1996, this appointment shall be designated as Post 3.

267 (d) The term of the member from the Fourth
268 Congressional District shall expire on July 1, 1985; and from and
269 after July 1, 1996, this appointment shall be designated as Post
270 4.

271 (e) The term of the member from the Fifth Congressional
272 District shall expire on July 1, 1987; and from and after July 1,
273 1996, this appointment shall be designated as Post 5.

274 (f) The term of one (1) of the members from the state
275 at large shall expire on July 1, 1985; and from and after July 1,
276 1996, this appointment shall be designated as Post 6.

277 (g) The term of the other member from the state at
278 large shall expire on July 1, 1988; and from and after July 1,
279 1996, this appointment shall be designated as Post 7.

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

283 (3) At the expiration of a term, members of the board shall
284 be appointed in the manner prescribed in subsection (1) of this
285 section for terms of five (5) years from the expiration date of
286 the previous terms. Any vacancy on the board prior to the
287 expiration of a term for any reason, including resignation,
288 removal, disqualification, death or disability, shall be filled by
289 appointment of the Governor in the manner prescribed in subsection
290 (1) of this section for the balance of the unexpired term. The
291 Mississippi Pharmacists Association, with input from the Magnolia
292 Pharmaceutical Society and other pharmacist associations or
293 societies, shall submit a list of nominees no more than thirty

294 (30) days after a vacancy occurs, and the Governor shall fill such
295 vacancies within ninety (90) days after each such vacancy occurs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

350 (2) The executive director shall receive a salary to be set
351 by the board, subject to the approval of the State Personnel
352 Board, and shall be entitled to necessary expenses incurred in the
353 performance of his official duties. He shall devote full time to
354 the duties of his office and shall not be * * * engaged in any
355 other business that will interfere with the duties of his office.

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

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

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

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

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

380 73-21-83. (1) The board shall be responsible for the
381 control and regulation of the practice of pharmacy, to include the
382 regulation of pharmacy externs or interns and pharmacist
383 technicians, in this state, the regulation of the wholesaler
384 distribution of drugs and devices as defined in Section 73-21-73,
385 and the distribution of sample drugs or devices by manufacturer's
386 distributors as defined in Section 73-21-73 by persons other than
387 the original manufacturer or distributor in this state.

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

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

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

406 (5) All persons licensed to practice pharmacy prior to July
407 1, 1991, by the State Board of Pharmacy under Section 73-21-89
408 shall continue to be licensed under the provisions of Section
409 73-21-91.

410 **SECTION 9.** Section 73-21-85, Mississippi Code of 1972, is
411 reenacted and amended as follows:

412 73-21-85. (1) To obtain a license to engage in the practice
413 of pharmacy by examination, or by score transfer, the applicant
414 shall:

415 (a) Have submitted a written application on the form
416 prescribed by the board;

417 (b) Be of good moral character;

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

421 (d) Have successfully passed an examination approved by
422 the board;

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

426 (f) Have paid all fees specified by the board for
427 licensure; and

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

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

438 (a) Have submitted a written application on the form
439 prescribed by the board;

440 (b) Be of good moral character;

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

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

448 (e) Have successfully passed an examination approved by
449 the board;

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

452 (g) Have paid all fees specified by the board for
453 licensure.

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

457 (4) To insure that all applicants are of good moral
458 character, the board shall conduct a criminal history records
459 check on all applicants for a license. In order to determine the
460 applicant's suitability for licensing, the applicant shall be
461 fingerprinted. The board shall submit the fingerprints to the
462 Department of Public Safety for a check of the state criminal
463 records and forwarded to the Federal Bureau of Investigation for a
464 check of the national criminal records. The Department of Public
465 Safety shall disseminate the results of the state check and the
466 national check to the board for a suitability determination. The
467 board shall be authorized to collect from the applicant the amount
468 of the fee that the Department of Public Safety charges the board
469 for the fingerprinting, whether manual or electronic, and the
470 state and national criminal history records checks.

471 (5) To insure that all applicants are of good moral
472 character, the board, upon request of the Dean of the University
473 of Mississippi School of Pharmacy, shall be authorized to conduct
474 a criminal history records check on all applicants for enrollment
475 into the School of Pharmacy. In order to determine the
476 applicant's suitability for enrollment and licensing, the
477 applicant shall be fingerprinted. The board shall submit the
478 fingerprints to the Department of Public Safety for a check of the
479 state criminal records and forwarded to the Federal Bureau of
480 Investigation for a check of the national criminal records. The
481 Department of Public Safety shall disseminate the results of the
482 state check and the national check to the board for a suitability
483 determination and the board shall forward the results to the Dean
484 of the School of Pharmacy. The board shall be authorized to
485 collect from the applicant the amount of the fee that the
486 Department of Public Safety charges the board for the

487 fingerprinting, whether manual or electronic, and the state and
488 national criminal history records checks.

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

491 73-21-87. (1) To obtain a license to engage in the practice
492 of pharmacy by reciprocity or license transfer, the applicant
493 shall:

494 (a) Have submitted a written application on the form
495 prescribed by the board;

496 (b) Be of good moral character;

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

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

505 (e) Have paid all fees specified by the board for
506 licensure.

507 (2) No applicant shall be eligible for licensure by
508 reciprocity or license transfer or unless the state in which the
509 applicant was initially licensed also grants a reciprocal license
510 or transfer license to pharmacists licensed by this state under
511 like circumstances and conditions.

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

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

517 73-21-89. (1) The board shall issue a license to practice
518 pharmacy to any person, if such person be otherwise qualified,
519 upon presentation to the board of:

520 (a) Satisfactory proof that the applicant has been
521 graduated from the University of Mississippi School of Pharmacy;
522 (b) Written application for licensure; and
523 (c) Payment of all fees specified by the board for
524 licensure.

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

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

530 **SECTION 12.** Section 73-21-91, Mississippi Code of 1972, is
531 reenacted and amended as follows:

532 73-21-91. (1) Every pharmacist shall renew his license
533 annually. To renew his license, a pharmacist shall:

534 (a) Submit an application for renewal on the form
535 prescribed by the board;

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

540 (c) Pay such renewal fees as required by the board, not
541 to exceed One Hundred Dollars (\$100.00) for each annual licensing
542 period, provided that the board may add a surcharge of not more
543 than Five Dollars (\$5.00) to a license renewal fee to fund a
544 program to aid impaired pharmacists or pharmacy students. Any
545 pharmacist license renewal received postmarked after December 31
546 of the renewal period will be returned and a Fifty Dollar (\$50.00)
547 late renewal fee will be assessed prior to renewal.

548 (2) Any pharmacist who has defaulted in license renewal may
549 be reinstated within two (2) years upon payment of renewal fees in
550 arrears and presentation of evidence of the required continuing
551 education. Any pharmacist defaulting in license renewal for a
552 period in excess of two (2) years shall be required to

553 successfully complete the examination given by the board pursuant
554 to Section 73-21-85 before being eligible for reinstatement as a
555 pharmacist in Mississippi, or shall be required to appear before
556 the board to be examined for his competence and knowledge of the
557 practice of pharmacy, and may be required to submit evidence of
558 continuing education. If such person is found fit by the board to
559 practice pharmacy in this state, the board may reinstate his
560 license to practice pharmacy upon payment of all renewal fees in
561 arrears.

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

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

567 73-21-93. (1) The examination for licensure required under
568 Section 73-21-85 shall be given by the board at least once during
569 each year. The board shall determine the content and subject
570 matter of each examination, the place, time and date of the
571 administration of the examination and those persons who have
572 successfully passed the examination.

573 (2) The examination shall be prepared to measure the
574 competence of the applicant to engage in the practice of pharmacy.
575 The board may employ and cooperate with any organization or
576 consultant in the preparation and grading of an appropriate
577 examination, but shall retain the sole discretion and
578 responsibility of determining which applicants have successfully
579 passed such an examination.

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

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

585 73-21-95. The assistant pharmacist license is hereby
586 abolished after April 30, 1984. The board shall issue a license
587 to practice pharmacy to those persons presently holding an
588 assistant pharmacist license upon their meeting the requirements
589 of Section 73-21-91.

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

592 73-21-97. (1) The board may refuse to issue or renew, or
593 may suspend, reprimand, revoke or restrict the license,
594 registration or permit of any person upon one or more of the
595 following grounds:

596 (a) Unprofessional conduct as defined by the rules and
597 regulations of the board;

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

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

603 (i) A felony;

604 (ii) Any act involving moral turpitude or gross
605 immorality; or

606 (iii) Violation of pharmacy or drug laws of this
607 state or rules or regulations pertaining thereto, or of statutes,
608 rules or regulations of any other state or the federal government;

609 (d) Fraud or intentional misrepresentation by a
610 licensee or permit holder in securing the issuance or renewal of a
611 license or permit;

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

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

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

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

619 (i) Addiction to or dependence on alcohol or controlled
620 substances or the unauthorized use or possession of controlled
621 substances;

622 (j) Misappropriation of any prescription drug;

623 (k) Being found guilty by the licensing agency in
624 another state of violating the statutes, rules or regulations of
625 that jurisdiction; or

626 (1) The unlawful or unauthorized possession of a
627 controlled substance.

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

631 (3) In addition to the grounds specified in subsection (1)
632 of this section, the board shall be authorized to suspend the
633 license, registration or permit of any person for being out of
634 compliance with an order for support, as defined in Section
635 93-11-153. The procedure for suspension of a license,
636 registration or permit for being out of compliance with an order
637 for support, and the procedure for the reissuance or reinstatement
638 of a license, registration or permit suspended for that purpose,
639 and the payment of any fees for the reissuance or reinstatement of
640 a license, registration or permit suspended for that purpose,
641 shall be governed by Section 93-11-157 or 93-11-163, as the case
642 may be. If there is any conflict between any provision of Section
643 93-11-157 or 93-11-163 and any provision of this chapter, the
644 provisions of Section 93-11-157 or 93-11-163, as the case may be,
645 shall control.

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

648 73-21-99. (1) Disciplinary action by the board against a
649 licensee, registrant or permit holder, or license, registration or
650 permit shall require the following:

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

654 (b) An order of the Investigations Review Committee of
655 the board which shall cause the executive director of the board to
656 fix a time and place for a hearing by the board. The executive
657 director shall cause a written notice specifying the offense or
658 offenses for which the licensee or permit holder is charged and
659 notice of the time and place of the hearing to be served upon the
660 licensee or permit holder at least thirty (30) days prior to the
661 hearing date. Such notice may be served by mailing a copy thereof
662 by certified mail, postage prepaid, to the last known residence or
663 business address of the licensee or permit holder.

664 (2) The board shall designate two (2) of its members to
665 serve on a rotating no longer than three-consecutive-month basis
666 with the executive director and legal counsel for the board as an
667 Investigations Review Committee, and the board's investigators
668 shall provide status reports solely to the Investigations Review
669 Committee during monthly meetings of the board. Such reports
670 shall be made on all on-going investigations, and shall apply to
671 any routine inspections which may give rise to the filing of a
672 complaint. In the event any complaint on a licensee comes before
673 the board for possible disciplinary action, the members of the
674 board serving on the Investigations Review Committee which
675 reviewed the investigation of such complaint shall recuse
676 themselves and not participate in the disciplinary proceeding.

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

681 (4) The board, acting by and through its executive director,
682 is hereby authorized and empowered to issue subpoenas for the
683 attendance of witnesses and the production of books and papers at
684 such hearing. Process issued by the board shall extend to all
685 parts of the state and shall be served by any person designated by
686 the board for such service.

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

691 (6) At the hearing, the board shall administer oaths as may
692 be necessary for the proper conduct of the hearing. All hearings
693 shall be conducted by the board, which shall not be bound by
694 strict rules of procedure or by the laws of evidence in the
695 conduct of its proceedings, but the determination shall be based
696 upon sufficient evidence to sustain it.

697 (7) Where, in any proceeding before the board, any witness
698 fails or refuses to attend upon a subpoena issued by the board,
699 refuses to testify, or refuses to produce any books and papers the
700 production of which is called for by a subpoena, the attendance of
701 such witness, the giving of his testimony or the production of the
702 books and papers shall be enforced by any court of competent
703 jurisdiction of this state in the manner provided for the
704 enforcement of attendance and testimony of witnesses in civil
705 cases in the courts of this state.

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

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

713 73-21-101. (1) The right to appeal from the action of the
714 board in denying, revoking, suspending or refusing to renew any
715 license, registration or permit issued by the board, or fining or
716 otherwise disciplining any person is hereby granted. Such appeal
717 shall be to the chancery court of the county of the residence of
718 the licensee or permit holder on the record made, including a
719 verbatim transcript of the testimony at the hearing. The appeal
720 shall be taken within thirty (30) days after notice of the action
721 of the board in denying, revoking, suspending or refusing to renew
722 the license or permit, or fining or otherwise disciplining the
723 person. The appeal shall be perfected upon filing notice of the
724 appeal and by the prepayment of all costs, including the cost of
725 the preparation of the record of the proceedings by the board, and
726 the filing of a bond in the sum of Two Hundred Dollars (\$200.00),
727 conditioned that if the action of the board in denying, revoking,
728 suspending or refusing to renew the license or permit, or fining
729 or otherwise disciplining the person, be affirmed by the chancery
730 court, the licensee or permit holder will pay the costs of the
731 appeal and the action in the chancery court.

732 (2) If there is an appeal, such appeal shall act as a
733 supersedeas. The chancery court shall dispose of the appeal and
734 enter its decision promptly. The hearing on the appeal may, in
735 the discretion of the chancellor, be tried in vacation. The scope
736 of review of the chancery court shall be limited to a review of
737 the record made before the board to determine if the action of the
738 board is unlawful for the reason that it was (a) not supported by
739 substantial evidence, (b) arbitrary or capricious, (c) beyond the
740 power of the board to make, or (d) in violation of some statutory
741 or constitutional right of the appellant. The decision of the
742 chancery court may be appealed to the Supreme Court in the manner
743 provided by law.

744 (3) Actions taken by the board in suspending a license,
745 registration or permit when required by Section 93-11-157 or

746 93-11-163 are not actions from which an appeal may be taken under
747 this section. Any appeal of a suspension of a license,
748 registration or permit that is required by Section 93-11-157 or
749 93-11-163 shall be taken in accordance with the appeal procedure
750 specified in Section 93-11-157 or 93-11-163, as the case may be,
751 rather than the procedure specified in this section.

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

754 73-21-103. (1) Upon the finding of the existence of grounds
755 for action against any permitted facility or discipline of any
756 person holding a license, registration or permit, seeking a
757 license, registration or permit, or seeking to renew a license or
758 permit under the provisions of this chapter, the board may impose
759 one or more of the following penalties:

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

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

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

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

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

772 (ii) For the second violation and subsequent
773 violations, a monetary penalty of not less than Five Hundred
774 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00)
775 for each violation.

776 Money collected by the board under Section 73-21-103,
777 subsection (1)(d)(i), (ii) and (iv) shall be deposited to the
778 credit of the State General Fund of the State Treasury;

779 (iii) The board may assess a monetary penalty for
780 those reasonable costs that are expended by the board in the
781 investigation and conduct of a proceeding for licensure
782 revocation, suspension or restriction, including, but not limited
783 to, the cost of process service, court reporters, expert witnesses
784 and investigators.

785 Money collected by the board under Section 73-21-103,
786 subsection (1)(d)(iii), shall be deposited to the credit of the
787 Special Fund of the Pharmacy Board;

788 (iv) The board may impose a monetary penalty for
789 those facilities/businesses registered with the Pharmacy Board as
790 wholesalers/manufacturers of not less than Three Hundred Dollars
791 (\$300.00) per violation and not more than Fifty Thousand Dollars
792 (\$50,000.00) per violation;

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

795 (f) Placement of the offender on probation and
796 supervision by the board for a period to be determined by the
797 board;

798 (g) Public or private reprimand.

799 Whenever the board imposes any penalty under this subsection,
800 the board may require rehabilitation and/or additional education
801 as the board may deem proper under the circumstances, in addition
802 to the penalty imposed.

803 (2) Any person whose license, registration and/or permit has
804 been suspended, revoked or restricted pursuant to this chapter,
805 whether voluntarily or by action of the board, shall have the
806 right to petition the board at reasonable intervals for
807 reinstatement of such license, registration and/or permit. Such
808 petition shall be made in writing and in the form prescribed by
809 the board. Upon investigation and hearing, the board may, in its
810 discretion, grant or deny such petition, or it may modify its
811 original finding to reflect any circumstances which have changed

812 sufficiently to warrant such modifications. The procedure for the
813 reinstatement of a license, registration or permit that is
814 suspended for being out of compliance with an order for support,
815 as defined in Section 93-11-153, shall be governed by Section
816 93-11-157 or 93-11-163, as the case may be.

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

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

826 (5) When payment of a monetary penalty assessed and levied
827 by the board against a licensee, registrant or permit holder in
828 accordance with this section is not paid by the licensee,
829 registrant or permit holder when due under this section, the board
830 shall have the power to institute and maintain proceedings in its
831 name for enforcement of payment in the chancery court of the
832 county and judicial district of residence of the licensee,
833 registrant or permit holder, or if the licensee, registrant or
834 permit holder is a nonresident of the State of Mississippi, in the
835 Chancery Court of the First Judicial District of Hinds County,
836 Mississippi. When such proceedings are instituted, the board
837 shall certify the record of its proceedings, together with all
838 documents and evidence, to the chancery court and the matter shall
839 thereupon be heard in due course by the court, which shall review
840 the record and make its determination thereon. The hearing on the
841 matter may, in the discretion of the chancellor, be tried in
842 vacation.

843 (6) The board shall develop and implement a uniform penalty
844 policy which shall set the minimum and maximum penalty for any

845 given violation of board regulations and laws governing the
846 practice of pharmacy. The board shall adhere to its uniform
847 penalty policy except in such cases where the board specifically
848 finds, by majority vote, that a penalty in excess of, or less
849 than, the uniform penalty is appropriate. Such vote shall be
850 reflected in the minutes of the board and shall not be imposed
851 unless such appears as having been adopted by the board.

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

854 73-21-105. (1) Every facility/business that shall engage in
855 the wholesale distribution of prescription drugs, to include
856 without limitation, manufacturing in this state, distribution into
857 this state, or selling or offering to sell in this state, or
858 distribution from or within this state, shall register biennially
859 with the Mississippi State Board of Pharmacy by applying for a
860 permit on a form supplied by the board and accompanied by a fee as
861 set by subsection (4) of this section. The Pharmacy Board shall
862 by regulation determine the classification of permit(s) that shall
863 be required.

864 (2) Every business/facility/pharmacy located in this state
865 that engages in or proposes to engage in the dispensing and
866 delivery of prescription drugs to consumers shall register with
867 the Mississippi State Board of Pharmacy by applying for a permit
868 on a form supplied by the board and accompanied by a fee as set by
869 subsection (4) of this section. The Pharmacy Board shall by
870 regulation determine the classification of permit(s) that shall be
871 required.

872 (3) The board shall establish by rule or regulation the
873 criteria which each business shall meet to qualify for a permit in
874 each classification. The board shall issue a permit to any
875 applicant who meets the criteria as established. The board may
876 issue various types of permits with varying restrictions to

877 businesses where the board deems it necessary by reason of the
878 type of activities conducted by the business requesting a permit.

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

885 (5) Applications for permits shall include the following
886 information about the proposed business:

887 (a) Ownership;

888 (b) Location;

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

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

895 (7) The board shall specify by rule or regulation minimum
896 standards for the responsibility in the conduct of any
897 business/facility and/or pharmacy that has been issued a permit.
898 The board is specifically authorized to require that the portion
899 of the facility located in this state to which a pharmacy permit
900 applies be operated only under the direct supervision of no less
901 than one (1) pharmacist licensed to practice in this state, and to
902 provide such other special requirements as deemed necessary.
903 Nothing in this subsection shall be construed to prevent any
904 person from owning a pharmacy.

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

907 (a) Permanent closing;

908 (b) Change of ownership, management, location or
909 pharmacist in charge;

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

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

916 (10) No business that is required to obtain a permit shall
917 be operated until a permit has been issued for such business by
918 the board. Any person, firm or corporation violating any of the
919 provisions of this section shall be guilty of a misdemeanor and,
920 upon conviction thereof, shall be punished by a fine of not less
921 than One Hundred Dollars (\$100.00) nor more than One Thousand
922 Dollars (\$1,000.00), or imprisonment in the county jail for not
923 less than thirty (30) days nor more than ninety (90) days, or by
924 both such fine and imprisonment. However, the provisions of this
925 chapter shall not apply to physicians, dentists, veterinarians,
926 osteopaths or other practitioners of the healing arts who are
927 licensed under the laws of the State of Mississippi and are
928 authorized to dispense and administer prescription drugs in the
929 course of their professional practice.

930 **SECTION 20.** Section 73-21-107, Mississippi Code of 1972, is
931 reenacted as follows:

932 73-21-107. (1) The board or its representative may enter
933 and inspect, during reasonable hours, a facility which has
934 obtained or applied for a permit under Section 73-21-105 relative
935 to the following:

936 (a) Drug storage and security;

937 (b) Equipment;

938 (c) Sanitary conditions; or

939 (d) Records, reports, or other documents required to be
940 kept or made under this chapter or the Uniform Controlled
941 Substances Law (Section 41-29-101 et seq.) or rules and
942 regulations adopted under such laws.

943 (2) Prior to an entry and inspection, the board
944 representative shall state his purpose and present appropriate
945 credentials to the owner, pharmacist or agent in charge of a
946 facility.

947 (3) The board representative may:

948 (a) Inspect and copy records, reports, and other
949 documents required to be kept or made under this chapter, the
950 Uniform Controlled Substances Law, or rules and regulations
951 adopted under such laws;

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

955 (c) Inventory any stock of any prescription drugs or
956 devices in the facility.

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

960 (a) Financial data;

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

962 (c) Pricing data.

963 **SECTION 21.** Section 73-21-109, Mississippi Code of 1972, is
964 reenacted as follows:

965 73-21-109. No person shall make use of the terms
966 "drugstore," "pharmacy," "apothecary" or words of similar meaning
967 which indicate that pharmaceutical services are performed in any
968 sign, letterhead or advertisement unless such person is a permit
969 holder as provided in Section 73-21-105. Any person violating
970 this section shall be guilty of a misdemeanor and, upon conviction
971 thereof, shall be punished by a fine of not less than One Hundred
972 Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00),
973 or by imprisonment in the county jail for not less than thirty
974 (30) days nor more than ninety (90) days, or by both.

975 **SECTION 22.** Section 73-21-111, Mississippi Code of 1972, is
976 reenacted as follows:

977 73-21-111. (1) The board shall make, adopt, amend and
978 repeal from time to time such rules and regulations for the
979 regulation of supportive personnel as may be deemed necessary by
980 the board.

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

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

987 (b) Be of good moral character; and

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

990 (3) Each pharmacy technician shall renew his or her
991 registration annually. To renew his or her registration, a
992 technician must:

993 (a) Submit an application on a form prescribed by the
994 board; and

995 (b) Pay a renewal fee not to exceed One Hundred Dollars
996 (\$100.00) for each annual registration period. The board may add
997 a surcharge of not more than Five Dollars (\$5.00) to the
998 registration renewal fee to assist in funding a program that
999 assists impaired pharmacists, pharmacy students and pharmacy
1000 technicians.

1001 (4) To insure that all applicants are of good moral
1002 character, the board shall conduct a criminal history records
1003 check on all applicants for a license. In order to determine the
1004 applicant's suitability for licensing, the applicant shall be
1005 fingerprinted. The board shall submit the fingerprints to the
1006 Department of Public Safety for a check of the state criminal
1007 records and forwarded to the Federal Bureau of Investigation for a

1008 check of the national criminal records. The Department of Public
1009 Safety shall disseminate the results of the state check and the
1010 national check to the board for a suitability determination. The
1011 board shall be authorized to collect from the applicant the amount
1012 of the fee that the Department of Public Safety charges the board
1013 for the fingerprinting, whether manual or electronic, and the
1014 state and national criminal history records checks.

1015 **SECTION 23.** Section 73-21-113, Mississippi Code of 1972, is
1016 reenacted as follows:

1017 73-21-113. All fees received by the board from examinations,
1018 licenses, permits and monetary penalties, and any other funds
1019 received by the board, shall be paid to the State Treasurer, who
1020 shall issue receipts therefor and deposit such funds in the State
1021 Treasury in a special fund to the credit of the board. All such
1022 funds shall be expended only pursuant to appropriation approved by
1023 the Legislature and as provided by law.

1024 **SECTION 24.** Section 73-21-115, Mississippi Code of 1972, is
1025 reenacted as follows:

1026 73-21-115. (1) Every prescription written in this state by
1027 a person authorized to issue such prescription shall be on
1028 prescription forms containing two (2) lines for the prescriber's
1029 signature. There shall be a signature line in the lower
1030 right-hand corner of the prescription form beneath which shall be
1031 clearly imprinted the words "substitution permissible." There
1032 shall be a signature line in the lower left-hand corner of the
1033 prescription form beneath which shall be clearly imprinted the
1034 words "dispense as written." The prescriber's signature on either
1035 signature line shall validate the prescription and shall designate
1036 approval or disapproval of product selection.

1037 (2) If a prescription form which does not contain the two
1038 (2) signature lines required in subsection (1) of this section is
1039 utilized by the prescriber, he shall write in his own handwriting

1040 the words "dispense as written" thereupon to prevent product
1041 selection.

1042 (3) A pharmacist licensed by the Mississippi State Board of
1043 Pharmacy may dispense a one-time emergency dispensing of a
1044 prescription of up to a seventy-two-hour supply of a prescribed
1045 medication in the event the pharmacist is unable to contact the
1046 prescriber to obtain refill authorization, provided that:

1047 (a) The prescription is not for a controlled substance;

1048 (b) In the pharmacist's professional judgment, the
1049 interruption of therapy might reasonably produce undesirable
1050 health consequences or may cause physical or mental discomfort;

1051 (c) The dispensing pharmacist notifies the prescriber
1052 or his agent of the emergency dispensing within seven (7) working
1053 days after the one-time emergency dispensing;

1054 (d) The pharmacist properly records the dispensing as a
1055 separate nonrefillable prescription. Said document shall be filed
1056 as is required of all other prescription records. This document
1057 shall be serially numbered and contain all information required of
1058 other prescriptions. In addition it shall contain the number of
1059 the prescription from which it was refilled; and

1060 (e) The pharmacist shall record on the new document the
1061 circumstances which warrant this emergency dispensing.

1062 This emergency dispensing shall be done only in the permitted
1063 facility which contains the nonrefillable prescription.

1064 **SECTION 25.** Section 73-21-117, Mississippi Code of 1972, is
1065 reenacted as follows:

1066 73-21-117. (1) A pharmacist may select a generic equivalent
1067 drug product only when such selection results in lower cost to the
1068 purchaser, unless product selection is expressly prohibited by the
1069 prescriber.

1070 (2) A pharmacist shall select a generic equivalent drug
1071 product when:

1072 (a) The purchaser requests the selection of a generic
1073 equivalent drug product;

1074 (b) The prescriber has not expressly prohibited product
1075 selection; and

1076 (c) Product selection will result in lower cost to the
1077 purchaser.

1078 Before product selection is made, the pharmacist shall advise
1079 the purchaser of his prerogatives under this subsection.

1080 (3) When requested by the purchaser to dispense the drug
1081 product as ordered by the prescriber, a pharmacist shall not
1082 select a generic equivalent drug product.

1083 **SECTION 26.** Section 73-21-119, Mississippi Code of 1972, is
1084 reenacted as follows:

1085 73-21-119. (1) The label of the container of any drug
1086 product which is sold within the State of Mississippi for resale
1087 at retail and which requires a prescription to be dispensed at
1088 retail shall contain at a minimum the name of the manufacturer of
1089 the final dosage unit, expiration date if applicable, batch or lot
1090 number and national drug code.

1091 (2) Whenever product selection is made, the pharmacist shall
1092 indicate on the label of the dispensed container the initials
1093 "G.E." and the proprietary name of the product dispensed or the
1094 generic name of the product dispensed and its manufacturer either
1095 written in full or appropriately abbreviated, unless the
1096 prescriber indicates that the name of the drug product shall not
1097 appear on the label.

1098 **SECTION 27.** Section 73-21-121, Mississippi Code of 1972, is
1099 reenacted as follows:

1100 73-21-121. (1) Product selection as authorized by Sections
1101 73-21-115 through 73-21-119 shall not constitute evidence of
1102 negligence by the dispensing pharmacist when such product
1103 selection is in accordance with reasonable and prudent pharmacy
1104 practice. No prescriber shall be liable for civil damages or in

1105 any criminal prosecution arising from the incorrect product
1106 selection by a pharmacist.

1107 (2) Any person having knowledge relating to a pharmacist or
1108 to a pharmacy student which might provide grounds for disciplinary
1109 action by the board may report relevant facts to the board, and
1110 shall by reason of reporting such facts in good faith be immune
1111 from civil liability.

1112 (3) Any person furnishing information in the form of data,
1113 reports or records to the board or to a pharmacist organization
1114 approved by the board to receive such information, where such
1115 information is furnished for the purpose of aiding a pharmacist or
1116 a pharmacy student impaired by chemical abuse or by mental or by
1117 physical illness, shall by reason of furnishing such information
1118 in good faith be immune from civil liability.

1119 (4) The records of the board or the records of a pharmacist
1120 organization approved by the board to aid pharmacists or pharmacy
1121 students impaired by chemical abuse, where such records relate to
1122 the impairment, shall be confidential and are not considered open
1123 records; provided, however, the board may disclose this
1124 confidential information only:

1125 (a) In a disciplinary hearing before the board, or in
1126 an appeal of an action or order of the board;

1127 (b) To the pharmacist licensing or disciplinary
1128 authorities of other jurisdictions in the case of a pharmacist who
1129 is licensed in, or seeking transfer to, another state; or

1130 (c) Pursuant to an order of a court of competent
1131 jurisdiction.

1132 **SECTION 28.** Section 73-21-123, Mississippi Code of 1972, is
1133 reenacted as follows:

1134 73-21-123. Nothing in this chapter shall be construed to
1135 prevent, or in any manner interfere with, or to require a permit
1136 for the sale of nonnarcotic nonprescription drugs which may be
1137 lawfully sold under the United States Food, Drug and Cosmetic Act

1138 (21 USCS 301 et seq. as now or hereafter amended) without a
1139 prescription, nor shall any rule or regulation be adopted by the
1140 board under the provisions of this chapter which shall require the
1141 sale of nonprescription drugs by a licensed pharmacist of in a
1142 pharmacy or otherwise apply to or interfere with the sale or
1143 distribution of such drugs.

1144 **SECTION 29.** The following provision shall be codified as
1145 Section 73-21-125, Mississippi Code of 1972:

1146 73-21-125. The Board of Pharmacy shall develop and implement
1147 computerized a computerized program to track prescriptions for
1148 controlled substances and to report illegal activity, under the
1149 following conditions:

1150 (a) The prescriptions tracked shall be prescriptions
1151 for controlled substances listed in Schedule II, III, IV or V that
1152 are filled by a pharmacy. The program shall provide information
1153 regarding the inappropriate use of controlled substances in
1154 Schedule II, III, IV and V to pharmacies, practitioners and
1155 appropriate state agencies in order to prevent the improper or
1156 illegal use of such controlled substances. The program shall not
1157 infringe on the legal use of controlled substances for the
1158 management of severe or intractable pain.

1159 (b) The Board of Pharmacy shall report any activity it
1160 reasonably suspects may be fraudulent or illegal to the
1161 appropriate law enforcement agency or occupational licensing board
1162 and provide them with the relevant information obtained for
1163 further investigation.

1164 (c) Information obtained from the program is
1165 confidential and must not be disclosed to any person. Information
1166 must be disclosed upon the request of a person about whom the
1167 information requested concerns or upon the request on his behalf
1168 by his attorney.

1169 (d) Licensed physicians, dentists and pharmacists may
1170 obtain patient specific information in the program by request.

1171 (e) The Board of Pharmacy may apply for any available
1172 grants and accept any gifts, grants or donations to assist in
1173 future development or in maintaining the program.

1174 **SECTION 30.** This act shall take effect and be in force from
1175 and after June 30, 2006.