

House Amendments to Senate Bill No. 2750

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

10 **SECTION 1.** Section 73-21-73, Mississippi Code of 1972, is
11 amended as follows:

12 73-21-73. As used in this chapter, unless the context
13 requires otherwise:

14 (a) "Administer" means the direct application of a
15 prescription drug pursuant to a lawful order of a practitioner to
16 the body of a patient by injection, inhalation, ingestion or any
17 other means.

18 (b) "Biological product" means the same as that term is
19 defined in 42 USC Section 262.

20 (c) "Board of Pharmacy," "Pharmacy Board," "MSBP" or
21 "board" means the State Board of Pharmacy.

22 (d) "Compounding" means (i) the production,
23 preparation, propagation, conversion or processing of a sterile or
24 nonsterile drug or device either directly or indirectly by
25 extraction from substances of natural origin or independently by
26 means of chemical or biological synthesis or from bulk chemicals

27 or the preparation, mixing, measuring, assembling, packaging or
28 labeling of a drug or device as a result of a practitioner's
29 prescription drug order or initiative based on the
30 practitioner/patient/pharmacist relationship in the course of
31 professional practice, or (ii) for the purpose of, as an incident
32 to, research, teaching or chemical analysis and not for sale or
33 dispensing. Compounding also includes the preparation of drugs or
34 devices in anticipation of prescription drug orders based on
35 routine regularly observed prescribing patterns.

36 (e) "Continuing education unit" means ten (10) clock
37 hours of study or other such activity as may be approved by the
38 board, including, but not limited to, all programs which have been
39 approved by the American Council on Pharmaceutical Education.

40 (f) "Deliver" or "delivery" means the actual,
41 constructive or attempted transfer in any manner of a drug or
42 device from one (1) person to another, whether or not for a
43 consideration, including, but not limited to, delivery by mailing
44 or shipping.

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

50 (h) "Dispense" or "dispensing" means the interpretation
51 of a valid prescription of a practitioner by a pharmacist and the
52 subsequent preparation of the drug or device for administration to

53 or use by a patient or other individual entitled to receive the
54 drug.

55 (i) "Distribute" means the delivery of a drug or device
56 other than by administering or dispensing to persons other than
57 the ultimate consumer.

58 (j) "Drug" means:

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

63 (ii) Articles intended for use in the diagnosis,
64 cure, mitigation, treatment or prevention of disease in man or
65 other animals;

66 (iii) Articles other than food intended to affect
67 the structure or any function of the body of man or other animals;
68 and

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

72 (k) "Drugroom" means a business, which does not require
73 the services of a pharmacist, where prescription drugs or
74 prescription devices are bought, sold, maintained or provided to
75 consumers.

76 (l) "Extern" means a student in the professional
77 program of a school of pharmacy accredited by the American Council

78 on Pharmaceutical Education who is making normal progress toward
79 completion of a professional degree in pharmacy.

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

89 (n) "Generic equivalent drug product" means a drug
90 product which (i) contains the identical active chemical
91 ingredient of the same strength, quantity and dosage form; (ii) is
92 of the same generic drug name as determined by the United States
93 Adoptive Names and accepted by the United States Food and Drug
94 Administration; and (iii) conforms to such rules and regulations
95 as may be adopted by the board for the protection of the public to
96 assure that such drug product is therapeutically equivalent.

97 (o) "Interchangeable biological product" or "I.B."
98 means a biological product that the federal Food and Drug
99 Administration:

100 (i) Has licensed and determined as meeting the
101 standards for interchangeability under 42 USC Section 262(k)(4);
102 or

103 (ii) Has determined is therapeutically equivalent
104 as set forth in the latest edition of or supplement to the federal
105 Food and Drug Administration's Approved Drug Products with
106 Therapeutic Equivalence Evaluations.

107 (p) "Internet" means collectively the myriad of
108 computer and telecommunications facilities, including equipment
109 and operating software, which comprise the interconnected
110 worldwide network of networks that employ the Transmission Control
111 Protocol/Internet Protocol, or any predecessor or successor
112 protocol to such protocol, to communicate information of all kinds
113 by wire or radio.

114 (q) "Interested directly" means being employed by,
115 having full or partial ownership of, or control of, any facility
116 permitted or licensed by the Mississippi State Board of Pharmacy.

117 (r) "Interested indirectly" means having a spouse who
118 is employed by any facility permitted or licensed by the
119 Mississippi State Board of Pharmacy.

120 (s) "Intern" means a person who has graduated from a
121 school of pharmacy but has not yet become licensed as a
122 pharmacist.

123 (t) "Manufacturer" means a person, business or other
124 entity engaged in the production, preparation, propagation,
125 conversion or processing of a prescription drug or device, if such
126 actions are associated with promotion and marketing of such drugs
127 or devices.

128 (u) "Manufacturer's distributor" means any person or
129 business who is not an employee of a manufacturer, but who
130 distributes sample drugs or devices, as defined under subsection
131 (i) of this section, under contract or business arrangement for a
132 manufacturer to practitioners.

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

141 (w) "Misappropriation of a prescription drug" means to
142 illegally or unlawfully convert a drug, as defined in subsection
143 (i) of this section, to one's own use or to the use of another.

144 (x) "Nonprescription drugs" means nonnarcotic medicines
145 or drugs that may be sold without a prescription and are
146 prepackaged and labeled for use by the consumer in accordance with
147 the requirements of the statutes and regulations of this state and
148 the federal government.

149 (y) "Person" means an individual, corporation,
150 partnership, association or any other legal entity.

151 (z) "Pharmacist" means an individual health care
152 provider licensed by this state to engage in the practice of

153 pharmacy. This recognizes a pharmacist as a learned professional
154 who is authorized to provide patient services.

155 (aa) "Pharmacy" means any location for which a pharmacy
156 permit is required and in which prescription drugs are maintained,
157 compounded and dispensed for patients by a pharmacist. This
158 definition includes any location where pharmacy-related services
159 are provided by a pharmacist.

160 (bb) "Prepackaging" means the act of placing small
161 precounted quantities of drug products in containers suitable for
162 dispensing or administering in anticipation of prescriptions or
163 orders.

164 (cc) "Unlawful or unauthorized possession" means
165 physical holding or control by a pharmacist of a controlled
166 substance outside the usual and lawful course of employment.

167 (dd) "Practice of pharmacy" means a health care service
168 that includes, but is not limited to, the compounding, dispensing,
169 and labeling of drugs or devices; interpreting and evaluating
170 prescriptions; administering and distributing drugs and devices;
171 the compounding, dispensing and labeling of drugs and devices;
172 maintaining prescription drug records; advising and consulting
173 concerning therapeutic values, content, hazards and uses of drugs
174 and devices; initiating or modifying of drug therapy in accordance
175 with written guidelines or protocols previously established and
176 approved by the board; selecting drugs; participating in drug
177 utilization reviews; storing prescription drugs and devices;
178 ordering lab work in accordance with written guidelines or

179 protocols as defined by paragraph (nn) of this section; providing
180 pharmacotherapeutic consultations; supervising supportive
181 personnel and such other acts, services, operations or
182 transactions necessary or incidental to the conduct of the
183 foregoing.

184 (ee) "Practitioner" means a physician, dentist,
185 veterinarian, or other health care provider authorized by law to
186 diagnose and prescribe drugs.

187 (ff) "Prescription" means a written, verbal or
188 electronically transmitted order issued by a practitioner for a
189 drug or device to be dispensed for a patient by a pharmacist.
190 "Prescription" includes a standing order issued by a practitioner
191 to an individual pharmacy that authorizes the pharmacy to dispense
192 an opioid antagonist to certain persons without the person to whom
193 the opioid antagonist is dispensed needing to have an individual
194 prescription, as authorized by Section 41-29-319(3).

195 (gg) "Prescription drug" or "legend drug" means a drug
196 which is required under federal law to be labeled with either of
197 the following statements prior to being dispensed or delivered:

198 (i) "Caution: Federal law prohibits dispensing
199 without prescription," or

200 (ii) "Caution: Federal law restricts this drug to
201 use by or on the order of a licensed veterinarian"; or a drug
202 which is required by any applicable federal or state law or
203 regulation to be dispensed on prescription only or is restricted
204 to use by practitioners only.

205 (hh) "Product selection" means the dispensing of a
206 generic equivalent drug product or an interchangeable biological
207 product in lieu of the drug product ordered by the prescriber.

208 (ii) "Provider" or "primary health care provider"
209 includes a pharmacist who provides health care services within his
210 or her scope of practice pursuant to state law and regulation.

211 (jj) "Registrant" means a pharmacy or other entity
212 which is registered with the Mississippi State Board of Pharmacy
213 to buy, sell or maintain controlled substances.

214 (kk) "Repackager" means a person registered by the
215 federal Food and Drug Administration as a repackager who removes a
216 prescription drug product from its marketed container and places
217 it into another, usually of smaller size, to be distributed to
218 persons other than the consumer.

219 (ll) "Reverse distributor" means a business operator
220 that is responsible for the receipt and appropriate return or
221 disposal of unwanted, unneeded or outdated stocks of controlled or
222 uncontrolled drugs from a pharmacy.

223 (mm) "Supportive personnel" or "pharmacist technician"
224 means those individuals utilized in pharmacies whose
225 responsibilities are to provide nonjudgmental technical services
226 concerned with the preparation and distribution of drugs under the
227 direct supervision and responsibility of a pharmacist.

228 (nn) "Written guideline or protocol" means an agreement
229 in which any practitioner authorized to prescribe drugs delegates
230 to a pharmacist authority to conduct specific prescribing

231 functions in an institutional setting, or with the practitioner's
232 individual patients, provided that a specific protocol agreement
233 between the practitioner and the pharmacist is signed * * *
234 and * * * filed as required by law or by rule or regulation of the
235 board.

236 (oo) "Wholesaler" means a person who buys or otherwise
237 acquires prescription drugs or prescription devices for resale or
238 distribution, or for repackaging for resale or distribution, to
239 persons other than consumers.

240 (pp) "Pharmacy benefit manager" has the same meaning as
241 defined in Section 73-21-153.

242 **SECTION 2.** This act shall take effect and be in force from
243 and after July 1, 2021.

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

1 AN ACT TO AMEND SECTION 73-21-73, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DEFINITION OF "WRITTEN GUIDELINE OR PROTOCOL" IN THE
3 PHARMACY PRACTICE ACT TO PROVIDE THAT A PHARMACIST TO WHOM A
4 PRACTITIONER WHO HAS DELEGATED THE AUTHORITY TO CONDUCT SPECIFIC
5 PRESCRIBING FUNCTIONS MUST HAVE A SPECIFIC PROTOCOL AGREEMENT
6 BETWEEN THE PRACTITIONER AND THE PHARMACIST THAT IS SIGNED AND
7 FILED; TO DELETE THE REQUIREMENT TO HAVE A PROTOCOL AGREEMENT ON
8 EACH PATIENT; AND FOR RELATED PURPOSES.

HR26\SB2750A.J

Andrew Ketchings
Clerk of the House of Representatives