

By: Representative Barnett

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 262

1 AN ACT TO PROVIDE THAT THE STATE BOARD OF PHARMACY SHALL  
 2 ESTABLISH AND MAINTAIN A CONTROLLED SUBSTANCES PRESCRIPTION  
 3 MONITORING PROGRAM, WHICH SHALL BE AN ELECTRONIC SYSTEM FOR  
 4 MONITORING THE DISPENSING OF CONTROLLED SUBSTANCES IN THE STATE;  
 5 TO PROVIDE THAT EACH DISPENSER WHO DISPENSES A CONTROLLED  
 6 SUBSTANCE SHALL SUBMIT TO THE BOARD CERTAIN SPECIFIED INFORMATION  
 7 RELATING TO THAT DISPENSING; TO PROVIDE THAT PRESCRIPTION  
 8 MONITORING INFORMATION SUBMITTED TO THE BOARD SHALL BE  
 9 CONFIDENTIAL, WITH CERTAIN SPECIFIED EXCEPTIONS, AND SHALL BE  
 10 EXEMPT FROM THE PROVISIONS OF THE PUBLIC RECORDS ACT; TO PROVIDE  
 11 THAT THE BOARD SHALL REVIEW PRESCRIPTION MONITORING INFORMATION,  
 12 AND SHALL NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY AND  
 13 PROFESSIONAL LICENSING AGENCY IF THERE IS REASONABLE CAUSE TO  
 14 BELIEVE A VIOLATION OF LAW MAY HAVE OCCURRED; TO PROVIDE CRIMINAL  
 15 PENALTIES FOR VIOLATIONS OF THE ACT; TO PROVIDE THAT THE BOARD  
 16 SHALL IDENTIFY THE COST-BENEFITS OF THE PROGRAM AND REPORT THAT  
 17 INFORMATION ANNUALLY TO THE GOVERNOR AND THE LEGISLATURE; AND FOR  
 18 RELATED PURPOSES.

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

20 **SECTION 1.** This act shall be known and may be cited as the  
 21 "Controlled Substances Prescription Monitoring Act."

22 **SECTION 2.** As used in this act, the following terms shall  
 23 have the following meanings, unless the context requires  
 24 otherwise:

- 25 (a) "Board" means the State Board of Pharmacy.
- 26 (b) "Controlled substance" means a drug, substance or  
 27 immediate precursor included in Schedule I, II, III, IV or V in  
 28 Sections 41-29-113 through 41-29-121 of the Uniform Controlled  
 29 Substances Law.
- 30 (c) "Dispenser" means a person authorized in this state  
 31 to distribute to the ultimate user a controlled substance, but  
 32 does not include:
  - 33 (i) A licensed hospital pharmacy that distributes  
 34 controlled substances for the purposes of inpatient hospital care

35 or the dispensing of prescriptions for controlled substances at  
36 the time of discharge from such a facility;

37 (ii) A licensed nurse or medication aide who  
38 administers a controlled substance at the direction of a licensed  
39 physician; or

40 (iii) A wholesale distributor of a controlled  
41 substance.

42 (d) "Prescriber" means a licensed health care  
43 professional with authority to prescribe controlled substances.

44 (e) "Prescription monitoring information" means  
45 information submitted to and maintained by the prescription  
46 monitoring program.

47 (f) "Prescription monitoring program" means the  
48 controlled substances prescription monitoring program established  
49 under Section 3 of this act.

50 **SECTION 3.** (1) The State Board of Pharmacy shall establish  
51 and maintain a controlled substances prescription monitoring  
52 program, which shall be an electronic system for monitoring the  
53 dispensing of controlled substances in the state.

54 (2) The board may contract with a vendor to establish and  
55 maintain the electronic monitoring system under guidelines  
56 promulgated by the board.

57 (3) The board shall promulgate such rules and regulations as  
58 necessary to implement the provisions of this act.

59 **SECTION 4.** (1) Each dispenser who dispenses a controlled  
60 substance shall submit to the board, by electronic means, or by  
61 another format specified in a waiver granted by the board,  
62 information as specified by the board, including:

63 (a) The patient's name;

64 (b) A patient identifier;

65 (c) The drug dispensed;

66 (d) The date of the dispensing;

67 (e) The quantity of the drug dispensed;

- 68           (f) The dispensing form of the drug;  
69           (g) The prescriber; and  
70           (h) The name and location of the dispenser.

71           (2) In addition to the information specified in subsection  
72 (1) of this section, each dispenser of a controlled substance  
73 shall submit to the board any attempt by a patient or other person  
74 to obtain a controlled substance with a prescription that is not  
75 filled by the dispenser.

76           (3) Each dispenser shall submit the required information as  
77 frequently as specified by the board.

78           (4) The board may grant a waiver of electronic submission to  
79 any dispenser for good cause, including financial hardship, as  
80 determined by the board. The waiver shall state the format and  
81 frequency with which the dispenser shall submit the required  
82 information to the board.

83           **SECTION 5.** (1) Except as otherwise provided in subsections  
84 (2) and (3) of this section, prescription monitoring information  
85 submitted to the board shall be confidential and shall be exempt  
86 from the provisions of the Mississippi Public Records Act of 1983.

87           (2) The board may provide prescription monitoring information  
88 for public research, policy or education purposes, to the extent  
89 that all information reasonably likely to reveal the patient or  
90 other person who is the subject of the information has been  
91 removed.

92           (3) The board shall review prescription monitoring  
93 information submitted to it. If there is reasonable cause to  
94 believe a violation of law may have occurred, the board shall  
95 notify the appropriate law enforcement agency and the appropriate  
96 professional licensing, certification or regulatory agency, and  
97 provide prescription monitoring information to those agencies as  
98 necessary for an investigation.

99 (4) The board shall be immune from civil liability arising  
100 from inaccuracy of any of the information submitted to the board  
101 under this act.

102 **SECTION 6.** (1) A dispenser who knowingly fails to submit  
103 prescription monitoring information to the board as required by  
104 this act is guilty of a misdemeanor and, upon conviction, is  
105 subject to the penalties in subsection (4) of this section.

106 (2) A person to whom the board provides prescription  
107 monitoring information under Section 5 of this act who knowingly  
108 discloses that information in violation of this act is guilty of a  
109 misdemeanor and, upon conviction, is subject to the penalties in  
110 subsection (4) of this section.

111 (3) A person to whom the board provides prescription  
112 monitoring information under Section 5 of this act who uses that  
113 information in a manner or for a purpose in violation of this act  
114 is guilty of a misdemeanor and, upon conviction, is subject to the  
115 penalties in subsection (4) of this section.

116 (4) Any person who is convicted of an offense under  
117 subsection (1), (2) or (3) of this section shall be punished by a  
118 fine of not more than One Thousand Dollars (\$1,000.00), by  
119 imprisonment for not more than one (1) year, or by both such fine  
120 and imprisonment.

121 **SECTION 7.** The board shall design and implement an  
122 evaluation component to identify cost-benefits of the prescription  
123 monitoring program, and shall report to the Governor and the  
124 Legislature annually about the cost-benefits of the prescription  
125 monitoring program.

126 **SECTION 8.** This act shall take effect and be in force from  
127 and after July 1, 2005.