

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1262

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (g) Public or private reprimand.

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

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

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

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

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

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

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

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

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