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To: Public Health and Human
Services

HOUSE BILL NO. 1137

1 AN ACT TO AMEND SECTION 41-29-319, MISSISSIPPI CODE OF 1972,
2 TO DEFINE THE TERM "COMMUNITY ORGANIZATION"; TO AUTHORIZE A
3 PRACTITIONER ACTING IN GOOD FAITH TO DIRECTLY, OR BY STANDING
4 ORDER, PRESCRIBE AN OPIOID ANTAGONIST TO A COMMUNITY ORGANIZATION;
5 TO AUTHORIZE A PERSON ACTING IN GOOD FAITH AND WITH REASONABLE
6 CARE TO ADMINISTER AN OPIOID ANTAGONIST THAT WAS DISTRIBUTED BY A
7 COMMUNITY ORGANIZATION TO ANOTHER PERSON WHOM HE OR SHE BELIEVES
8 TO BE EXPERIENCING AN OPIOID-RELATED OVERDOSE; TO AUTHORIZE A
9 COMMUNITY ORGANIZATION TO STORE AND DISTRIBUTE AN OPIOID
10 ANTAGONIST; TO AUTHORIZE A MEMBER OF A COMMUNITY ORGANIZATION TO
11 ADMINISTER AN OPIOID ANTAGONIST TO ANOTHER PERSON; TO AUTHORIZE
12 THE DEPARTMENT OF HEALTH TO DISTRIBUTE AN OPIOID ANTAGONIST TO ANY
13 MEMBER OF A COMMUNITY ORGANIZATION UPON A REQUEST MADE IN WRITING
14 BY THE COMMUNITY ORGANIZATION; TO AUTHORIZE A PERSON TO STORE AN
15 OPIOID ANTAGONIST THAT IS DISTRIBUTED BY A COMMUNITY ORGANIZATION;
16 TO PROVIDE CERTAIN CRIMINAL AND CIVIL LIABILITY PROTECTION TO A
17 COMMUNITY ORGANIZATION AND MEMBERS AND PERSONNEL OF SUCH
18 ORGANIZATION; TO BRING FORWARD SECTION 73-21-73, MISSISSIPPI CODE
19 OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
20 PURPOSES.

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

22 **SECTION 1.** Section 41-29-319, Mississippi Code of 1972, is
23 amended as follows:

24 41-29-319. (1) This section shall be known as the
25 "Emergency Response and Overdose Prevention Act."

26 (2) As used in this section, the following terms shall be
27 defined as provided in this subsection:



28 (a) "Administer" means the direct application of a drug
29 to the body of an individual by injection, inhalation, ingestion
30 or any other means.

31 (b) "Community organization" means an organization
32 aimed at making desired improvements to a community's social
33 health, well-being, and overall functioning. "Community
34 organization" may include organizations that participate in social
35 work, and that are related to the organized development of
36 community social welfare through coordination of public and
37 private agencies. Community organizations may exist in
38 geographically, culturally, spiritually, and digitally bounded
39 communities.

40 (c) "Distribute" means to deliver an opioid antagonist
41 drug or opioid antagonist device by means other than by
42 administering.

43 (d) "Education employee" means an employee of any
44 school district, public charter school, private school, public or
45 private university, community college or junior college.

46 (e) "Possess" means to have physical control or custody
47 of an opioid antagonist.

48 (f) "Practitioner" means a physician licensed to
49 practice medicine in this state or any licensed health care
50 provider who is authorized to prescribe an opioid antagonist.

51 (g) "Opioid antagonist" means any drug that binds to
52 opioid receptors and blocks or inhibits the effects of opioids



53 acting on those receptors and that is approved by the federal Food
54 and Drug Administration for the treatment of an opioid-related
55 overdose.

56 (h) "Opioid-related overdose" means an acute condition,
57 including, but not limited to, extreme physical illness, decreased
58 level of consciousness, respiratory depression, coma, mania or
59 death, resulting from the consumption or use of an opioid or
60 another substance with which an opioid was combined or that a
61 layperson would reasonably believe to be resulting from the
62 consumption or use of an opioid or another substance with which an
63 opioid was combined for which medical assistance is required.

64 (i) "Emergency medical technician" means an individual
65 who possesses a valid emergency medical technician's certificate
66 issued under Section 41-59-33.

67 (j) "Storage" means possession of an opioid antagonist
68 with the intent to distribute or administer the opioid antagonist.

69 (3) (a) A practitioner acting in good faith and in
70 compliance with the standard of care applicable to that
71 practitioner may directly, or by standing order, prescribe an
72 opioid antagonist to a person at risk of experiencing an
73 opioid-related overdose, or to a registered pain management
74 clinic, community organization, family member, friend or other
75 person in a position to assist such person at risk of experiencing
76 an opioid-related overdose.



77 (b) A practitioner acting in good faith and in
78 compliance with the standard of care applicable to that
79 practitioner may issue a standing order to one or more individual
80 pharmacies that authorizes the pharmacy to dispense an opioid
81 antagonist to a person at risk of experiencing an opioid-related
82 overdose or to a community organization, family member, friend or
83 other person in a position to assist such person at risk of
84 experiencing an opioid-related overdose, without the person to
85 whom the opioid antagonist is dispensed needing to have an
86 individual prescription.

87 (4) A pharmacist acting in good faith and in compliance with
88 the standard of care applicable to pharmacists may dispense opioid
89 antagonists under a prescription or a standing order issued in
90 accordance with subsection (3) of this section. However, before a
91 pharmacist may dispense an opioid antagonist under the authority
92 of subsection (3)(b) of this section, the pharmacist must complete
93 a training program approved by the State Board of Pharmacy on
94 opioid antagonists.

95 (5) (a) A person acting in good faith and with reasonable
96 care to another person whom he or she believes to be experiencing
97 an opioid-related overdose may administer an opioid antagonist
98 that was prescribed or authorized by a standing order in
99 accordance with subsection (3) of this section.

100 (b) A person acting in good faith and with reasonable
101 care to another person whom he or she believes to be experiencing



102 an opioid-related overdose may administer an opioid antagonist
103 that was distributed by an education employee.

104 (c) A person acting in good faith and with reasonable
105 care to another person whom he or she believes to be experiencing
106 an opioid-related overdose may administer an opioid antagonist
107 that was distributed by a community organization. Failure of a
108 community organization, or a member or personnel of such
109 organization, to act shall not expose such organization, member,
110 or personnel to any criminal or civil liability.

111 (6) Emergency medical technicians, firefighters and law
112 enforcement officers acting in good faith shall be authorized and
113 permitted to administer an opioid antagonist as clinically
114 indicated. Failure of an emergency medical technician,
115 firefighter or law enforcement officer to act shall not expose
116 such person to any criminal or civil liability.

117 (7) (a) An education employee may store or distribute an
118 opioid antagonist.

119 (b) An education employee may administer an opioid
120 antagonist to another person if the education employee:

121 (i) In good faith, believes the other person is
122 experiencing a drug overdose; and

123 (ii) Acts with reasonable care in administering
124 the opioid antagonist to the other person.



125 (c) The Department of Health may distribute an opioid
126 antagonist to any education employee upon a request made in
127 writing by the education employee.

128 (d) A person may store an opioid antagonist that is
129 distributed by an education employee.

130 (8) (a) A community organization may store or distribute an
131 opioid antagonist.

132 (b) A member of a community organization may administer
133 an opioid antagonist to another person if such member:

134 (i) In good faith, believes the other person is
135 experiencing a drug overdose; and

136 (ii) Acts with reasonable care in administering
137 the opioid antagonist to the other person.

138 (c) The Department of Health may distribute an opioid
139 antagonist to any member of a community organization upon a
140 request made in writing by the community organization.

141 (d) A person may store an opioid antagonist that is
142 distributed by a community organization.

143 (e) Failure of a community organization, or a member or
144 personnel of such organization, to act shall not expose such
145 organization, member, or personnel to any criminal or civil
146 liability.

147 (* * *9) The following individuals are immune from any
148 civil or criminal liability or professional licensing sanctions
149 for the following actions authorized by this section:



150 (a) Any practitioner who prescribes or issues a
151 standing order for an opioid antagonist in accordance with
152 subsection (3) of this section;

153 (b) Any practitioner or pharmacist acting in good faith
154 and in compliance with the standard of care applicable to that
155 practitioner or pharmacist who dispenses an opioid antagonist
156 under a prescription or standing order issued in accordance with
157 subsection (3) of this section;

158 (c) (i) Any person other than a practitioner who
159 administers an opioid antagonist in accordance with subsection (5)
160 of this section; and

161 (ii) Any person other than a practitioner who
162 stores an opioid antagonist distributed by an education employee;

163 (d) Any emergency medical technician, firefighters and
164 law enforcement officers who administers an opioid antagonist in
165 accordance with subsection (6) of this section.

166 (e) Any education employee who stores, distributes or
167 administers an opioid antagonist under subsection (7) of this
168 section.

169 **SECTION 2.** Section 73-21-73, Mississippi Code of 1972, is
170 brought forward as follows:

171 73-21-73. As used in this chapter, unless the context
172 requires otherwise:

173 (a) "Administer" means the direct application of a
174 prescription drug pursuant to a lawful order of a practitioner to



175 the body of a patient by injection, inhalation, ingestion or any
176 other means.

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

179 (c) "Board of Pharmacy," "Pharmacy Board," "MSBP" or
180 "board" means the State Board of Pharmacy.

181 (d) "Compounding" means (i) the production,
182 preparation, propagation, conversion or processing of a sterile or
183 nonsterile drug or device either directly or indirectly by
184 extraction from substances of natural origin or independently by
185 means of chemical or biological synthesis or from bulk chemicals
186 or the preparation, mixing, measuring, assembling, packaging or
187 labeling of a drug or device as a result of a practitioner's
188 prescription drug order or initiative based on the
189 practitioner/patient/pharmacist relationship in the course of
190 professional practice, or (ii) for the purpose of, as an incident
191 to, research, teaching or chemical analysis and not for sale or
192 dispensing. Compounding also includes the preparation of drugs or
193 devices in anticipation of prescription drug orders based on
194 routine regularly observed prescribing patterns.

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



199 (f) "Deliver" or "delivery" means the actual,
200 constructive or attempted transfer in any manner of a drug or
201 device from one (1) person to another, whether or not for a
202 consideration, including, but not limited to, delivery by mailing
203 or shipping.

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

209 (h) "Dispense" or "dispensing" means the interpretation
210 of a valid prescription of a practitioner by a pharmacist and the
211 subsequent preparation of the drug or device for administration to
212 or use by a patient or other individual entitled to receive the
213 drug.

214 (i) "Distribute" means the delivery of a drug or device
215 other than by administering or dispensing to persons other than
216 the ultimate consumer.

217 (j) "Drug" means:

218 (i) Articles recognized as drugs in the official
219 United States Pharmacopeia, official National Formulary, official
220 Homeopathic Pharmacopeia, other drug compendium or any supplement
221 to any of them;



222 (ii) Articles intended for use in the diagnosis,
223 cure, mitigation, treatment or prevention of disease in man or
224 other animals;

225 (iii) Articles other than food intended to affect
226 the structure or any function of the body of man or other animals;
227 and

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

231 (k) "Drugroom" means a business, which does not require
232 the services of a pharmacist, where prescription drugs or
233 prescription devices are bought, sold, maintained or provided to
234 consumers.

235 (l) "Extern" means a student in the professional
236 program of a school of pharmacy accredited by the American Council
237 on Pharmaceutical Education who is making normal progress toward
238 completion of a professional degree in pharmacy.

239 (m) "Foreign pharmacy graduate" means a person whose
240 undergraduate pharmacy degree was conferred by a recognized school
241 of pharmacy outside of the United States, the District of Columbia
242 and Puerto Rico. Recognized schools of pharmacy are those
243 colleges and universities listed in the World Health
244 Organization's World Directory of Schools of Pharmacy, or
245 otherwise approved by the Foreign Pharmacy Graduate Examination



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

248 (n) "Generic equivalent drug product" means a drug
249 product which (i) contains the identical active chemical
250 ingredient of the same strength, quantity and dosage form; (ii) is
251 of the same generic drug name as determined by the United States
252 Adoptive Names and accepted by the United States Food and Drug
253 Administration; and (iii) conforms to such rules and regulations
254 as may be adopted by the board for the protection of the public to
255 assure that such drug product is therapeutically equivalent.

256 (o) "Interchangeable biological product" or "I.B."
257 means a biological product that the federal Food and Drug
258 Administration:

259 (i) Has licensed and determined as meeting the
260 standards for interchangeability under 42 USC Section 262(k)(4);
261 or

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

266 (p) "Internet" means collectively the myriad of
267 computer and telecommunications facilities, including equipment
268 and operating software, which comprise the interconnected
269 worldwide network of networks that employ the Transmission Control
270 Protocol/Internet Protocol, or any predecessor or successor



271 protocol to such protocol, to communicate information of all kinds
272 by wire or radio.

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

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

279 (s) "Intern" means a person who has graduated from a
280 school of pharmacy but has not yet become licensed as a
281 pharmacist.

282 (t) "Manufacturer" means a person, business or other
283 entity engaged in the production, preparation, propagation,
284 conversion or processing of a prescription drug or device, if such
285 actions are associated with promotion and marketing of such drugs
286 or devices.

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

292 (v) "Manufacturing" of prescription products means the
293 production, preparation, propagation, conversion or processing of
294 a drug or device, either directly or indirectly, by extraction
295 from substances from natural origin or independently by means of



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

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

303 (x) "Nonprescription drugs" means nonnarcotic medicines
304 or drugs that may be sold without a prescription and are
305 prepackaged and labeled for use by the consumer in accordance with
306 the requirements of the statutes and regulations of this state and
307 the federal government.

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

310 (z) "Pharmacist" means an individual health care
311 provider licensed by this state to engage in the practice of
312 pharmacy. This recognizes a pharmacist as a learned professional
313 who is authorized to provide patient services.

314 (aa) "Pharmacy" means any location for which a pharmacy
315 permit is required and in which prescription drugs are maintained,
316 compounded and dispensed for patients by a pharmacist. This
317 definition includes any location where pharmacy-related services
318 are provided by a pharmacist.

319 (bb) "Prepackaging" means the act of placing small
320 precounted quantities of drug products in containers suitable for



321 dispensing or administering in anticipation of prescriptions or
322 orders.

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

326 (dd) "Practice of pharmacy" means a health care service
327 that includes, but is not limited to, the compounding, dispensing,
328 and labeling of drugs or devices; interpreting and evaluating
329 prescriptions; administering and distributing drugs and devices;
330 the compounding, dispensing and labeling of drugs and devices;
331 maintaining prescription drug records; advising and consulting
332 concerning therapeutic values, content, hazards and uses of drugs
333 and devices; initiating or modifying of drug therapy in accordance
334 with written guidelines or protocols previously established and
335 approved by the board; selecting drugs; participating in drug
336 utilization reviews; storing prescription drugs and devices;
337 ordering lab work in accordance with written guidelines or
338 protocols as defined by paragraph (nn) of this section; providing
339 pharmacotherapeutic consultations; supervising supportive
340 personnel and such other acts, services, operations or
341 transactions necessary or incidental to the conduct of the
342 foregoing.

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



346 (ff) "Prescription" means a written, verbal or
347 electronically transmitted order issued by a practitioner for a
348 drug or device to be dispensed for a patient by a pharmacist.
349 "Prescription" includes a standing order issued by a practitioner
350 to an individual pharmacy that authorizes the pharmacy to dispense
351 an opioid antagonist to certain persons without the person to whom
352 the opioid antagonist is dispensed needing to have an individual
353 prescription, as authorized by Section 41-29-319(3).

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

357 (i) "Caution: Federal law prohibits dispensing
358 without prescription," or

359 (ii) "Caution: Federal law restricts this drug to
360 use by or on the order of a licensed veterinarian"; or a drug
361 which is required by any applicable federal or state law or
362 regulation to be dispensed on prescription only or is restricted
363 to use by practitioners only.

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

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



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

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

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

382 (mm) "Supportive personnel" or "pharmacist technician"
383 means those individuals utilized in pharmacies whose
384 responsibilities are to provide nonjudgmental technical services
385 concerned with the preparation and distribution of drugs under the
386 direct supervision and responsibility of a pharmacist.

387 (nn) "Written guideline or protocol" means an agreement
388 in which any practitioner authorized to prescribe drugs delegates
389 to a pharmacist authority to conduct specific prescribing
390 functions in an institutional setting, or with the practitioner's
391 individual patients, provided that a specific protocol agreement
392 between the practitioner and the pharmacist is signed and filed as
393 required by law or by rule or regulation of the board.



394 (oo) "Wholesaler" means a person who buys or otherwise
395 acquires prescription drugs or prescription devices for resale or
396 distribution, or for repackaging for resale or distribution, to
397 persons other than consumers.

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

400 **SECTION 3.** This act shall take effect and be in force from
401 and after its passage.

