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Chapter No. 466  
11/HR07/R1297SG  
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**HOUSE BILL NO. 827**

Originated in House Don Richardson Clerk

HOUSE BILL NO. 827

AN ACT TO AMEND SECTION 41-29-125, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT DELIVERY OF SCHEDULE II CONTROLLED SUBSTANCES BY MAIL OR OTHER SHIPPING METHOD IS TO BE MADE ONLY TO A PERSON OVER THE AGE OF 18 WHO MUST SIGN FOR RECEIPT THEREOF; TO AMEND SECTIONS 41-29-129 AND 73-21-106, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 41-29-125, Mississippi Code of 1972, is amended as follows:

41-29-125. (a) The State Board of Pharmacy may promulgate rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state.

(1) Every person who manufactures, distributes or dispenses any controlled substance within this state, or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state, must obtain a registration issued by the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the Mississippi Board of Veterinary Medicine, as appropriate, in accordance with its rules and the law of this state. Such registration shall be obtained annually or biennially, as specified by the issuing board, and a reasonable fee may be charged by the issuing board for such registration.

(2) Persons registered by the State Board of Pharmacy, with the consent of the United States Drug Enforcement Administration and the State Board of Medical Licensure, the State

Board of Dental Examiners, the Mississippi Board of Nursing or the Mississippi Board of Veterinary Medicine to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(3) The following persons need not register and may lawfully possess controlled substances under this article:

(A) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(B) A common or contract carrier or warehouse, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(C) An ultimate user or a person in possession of any controlled substance pursuant to a valid prescription or in lawful possession of a Schedule V substance as defined in Section 41-29-121.

(4) The State Board of Pharmacy may waive by rule the requirement for registration of certain manufacturers, distributors or dispensers if it finds it consistent with the public health and safety.

(5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(6) The State Board of Pharmacy, the Mississippi Bureau of Narcotics, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing and the Mississippi Board of Veterinary Medicine may inspect the establishment of a registrant or applicant for registration in

accordance with the regulations of these agencies as approved by the board.

(b) Whenever a pharmacy ships, mails or delivers any Schedule II controlled substance listed in Section 41-29-115 to a private residence in this state, the pharmacy shall arrange with the entity that will actually deliver the controlled substance to a recipient in this state that the entity will: (1) deliver the controlled substance only to a person who is eighteen (18) years of age or older; and (2) obtain the signature of that person before delivering the controlled substance. The requirements of this subsection shall not apply to a pharmacy serving a nursing facility or to a pharmacy owned and/or operated by a hospital, nursing facility or clinic to which the general public does not have access to purchase pharmaceuticals on a retail basis.

**SECTION 2.** Section 41-29-129, Mississippi Code of 1972, is amended as follows:

41-29-129. (a) A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the State Board of Pharmacy upon a finding that the registrant:

(1) Has willfully furnished false or fraudulent material information in any application filed under this article;

(2) Has been convicted of a felony within the past five (5) years and has not been pardoned and his citizenship restored under any state or federal law relating to any controlled substance;

(3) Has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) Has violated or failed to comply with any state law or any duly promulgated regulation of the State Board of Pharmacy which reflects adversely on the registrant's reliability and integrity with respect to controlled substances;

(5) Has violated the Uniform Controlled Substances Law of the State of Mississippi;

(6) Has violated any duly promulgated rule or regulation of the State Board of Pharmacy pertaining to the manufacture, distribution, storage, possession, control or dispensing of controlled substances;

(7) Has been convicted of a violation relating to any substance defined in this article as a controlled substance;

(8) Has dispensed any controlled substance if the registrant knew the prescription was not valid under the provisions of this article.

(b) The State Board of Pharmacy may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the board or the State Board of Pharmacy suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state. All state professional or business licensing agencies shall promptly notify the bureau of all orders of suspensions or revocations which are the result of drug violations or drug-related matters.

(d) The bureau shall promptly notify the federal Drug Enforcement Administration of all orders suspending or revoking registration and all forfeitures of controlled substances.

**SECTION 3.** Section 73-21-106, Mississippi Code of 1972, is amended as follows:

73-21-106. (1) Any pharmacy located outside this state that ships, mails or delivers, in any manner, controlled substances or prescription or legend drugs or devices into this state shall be considered a nonresident pharmacy, shall be registered with the board, and shall:

(a) Disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists-in-charge. A report containing this information shall be made on an annual basis and within thirty (30) days after any change of office, corporate officer or pharmacist-in-charge;

(b) Comply with all lawful directions and requests for information from the regulatory or licensing agency of the state in which it is licensed as well as with all requests for information made by the board pursuant to this section. The nonresident pharmacy shall maintain at all times a valid unexpired license, permit or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located; and

(c) Maintain its records of controlled substances and prescription or legend drugs or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(2) Any pharmacy subject to this section shall provide during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(3) The registration fee for nonresident pharmacies shall be the same as the fee as set by subsection (4) of Section 73-21-105.

(4) The registration requirements of this section shall apply to any nonresident pharmacy that dispenses, distributes, ships, mails or delivers controlled substances or prescription or legend drugs and devices into this state directly to a consumer.

(5) The board may deny, revoke or suspend a nonresident pharmacy registration only for:

(a) Failure to comply with any requirement of this section or Section 41-29-125;

(b) Conduct that causes serious bodily or serious psychological injury to a resident of this state if the board has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and the regulatory or licensing agency fails to initiate an investigation within forty-five (45) days of the referral; or

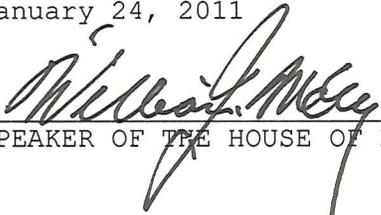
(c) Violation of the Uniform Controlled Substances Law.

(6) It is unlawful for any nonresident pharmacy that is not registered under this section to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy that has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

(7) When requested to do so by the board or the Mississippi Bureau of Narcotics, each nonresident pharmacy shall supply any inspection reports, controlled substances dispensing records, warning notices, notice of deficiency reports or any other related reports from the state in which it is located concerning the operation of a nonresident pharmacy for review of compliance with state and federal drug laws.

**SECTION 4.** This act shall take effect and be in force from and after July 1, 2011.

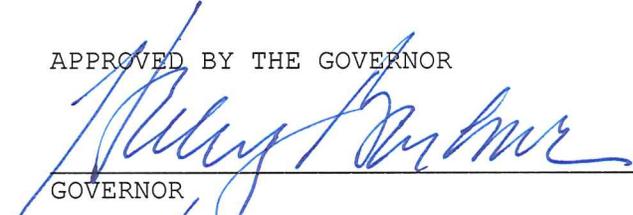
PASSED BY THE HOUSE OF REPRESENTATIVES  
January 24, 2011

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 9, 2011

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR  
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