

1 SB367
2 117130-1
3 By Senators Butler, Coleman, Means, Dunn, Little (Z), French,
4 Waggoner, Dixon, Mitchem and Smith
5 RFD: Health
6 First Read: 04-FEB-10

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8 SYNOPSIS: Under existing law, certain terms are
9 defined for purposes of regulating and licensing
10 pharmacies and pharmacists.

11 This bill would define the term pharmacy
12 services permit for such purposes.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Section 34-23-1, Code of Alabama 1975,
19 relating to the definitions for purposes of regulating and
20 licensing pharmacies and pharmacists, to define the term
21 pharmacy services permit for such purposes.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 34-23-1, Code of Alabama 1975, is
24 amended to read as follows:

25 "§34-23-1.

26 "For the purpose of this chapter, the following
27 words and phrases shall have the following meanings:

1 "(1) ASSOCIATION. The Alabama Pharmacy Association.

2 "(2) BOARD or STATE BOARD. The Alabama State Board
3 of Pharmacy.

4 "(3) CHEMICAL. Any substance of a medicinal nature,
5 whether simple or compound, obtained through the process of
6 the science and art of chemistry, whether of organic or
7 inorganic origin.

8 "(4) DISPENSE. To sell, distribute, administer,
9 leave with, give away, dispose of, deliver, or supply a drug
10 or medicine to the ultimate user or their agent.

11 "(5) DRUGS. All medicinal substances, preparations,
12 and devices recognized by the United States Pharmacopoeia and
13 National Formulary, or any revision thereof, and all
14 substances and preparations intended for external and internal
15 use in the cure, diagnosis, mitigation, treatment, or
16 prevention of disease in man or animal and all substances and
17 preparations other than food intended to affect the structure
18 or any function of the body of man or animal.

19 "(6) EXTERN. A candidate for licensure as a
20 pharmacist during the time prior to graduation from an
21 accredited college of pharmacy.

22 "(7) HOSPITAL. An institution for the care and
23 treatment of the sick and injured, licensed by the Alabama
24 State Board of Health and authorized to be entrusted with the
25 custody of drugs and medicines, the professional use of drugs
26 and medicines being under the direct supervision of a medical
27 practitioner or pharmacist.

1 "(8) INTERN. An individual who is currently licensed
2 by this state to engage in the practice of pharmacy while
3 under the personal supervision of a pharmacist and is
4 satisfactorily progressing toward meeting the requirements for
5 licensure as a pharmacist; or a graduate of an approved
6 college of pharmacy who is currently licensed by the State
7 Board of Pharmacy for the purpose of obtaining practical
8 experience as a requirement for licensure as a pharmacist; or
9 a qualified applicant awaiting examination for licensure.

10 "(9) LEGEND DRUG. Any drug, medicine, chemical, or
11 poison bearing on the label the words, "caution, federal law
12 prohibits dispensing without prescription," or similar wording
13 indicating that such drug, medicine, chemical, or poison may
14 be sold or dispensed only upon the prescription of a licensed
15 medical practitioner.

16 "(10) LICENSE. The grant of authority by the State
17 Board of Pharmacy to a person authorizing him or her to engage
18 in the practice of pharmacy in this state.

19 "(11) MANUFACTURER. A person, except a pharmacy, who
20 prepares, derives, produces, compounds, or packages any drug,
21 medicine, chemical, or poison.

22 "(12) MEDICAL PRACTITIONER. Any physician, dentist,
23 or veterinarian, or any other person authorized by law to
24 treat, use, or prescribe medicine and drugs for sick and
25 injured human beings or animals in this state.

26 "(13) MEDICINE. Any drug or combination of drugs
27 that has the property of curing, diagnosing, preventing,

1 treating, or mitigating diseases or that which may be used for
2 those purposes.

3 "(14) PATENT OR PROPRIETARY MEDICINES. Completely
4 compounded nonprescription packaged drugs, medicines, and
5 nonbulk chemicals which are sold, offered, promoted, or
6 advertised by the manufacturer or primary distributor under a
7 trademark, trade name, or other trade symbol, and the labeling
8 of which conforms to the requirements of the Federal Food,
9 Drug, and Cosmetic Act; provided, that this definition shall
10 not include:

11 "a. Drugs which are only advertised and promoted
12 professionally to licensed physicians, dentists, or
13 veterinarians by manufacturers or primary distributors.

14 "b. A narcotic or drug containing a narcotic.

15 "c. A drug the label of which bears substantially
16 either the statements "caution--federal law prohibits
17 dispensing without prescription" or "warning--may be
18 habit-forming".

19 "d. A drug intended for injection.

20 "(15) PERMIT. The grant of authority by the State
21 Board of Pharmacy to any person, firm, or corporation
22 authorizing the operation of a pharmacy, wholesale drug
23 distributor, repackager, bottler, manufacturer, or packer of
24 drugs, medicines, chemicals, or poisons for medicinal
25 purposes. Nonresident wholesale drug distributors registered
26 with the appropriate agency, in the state in which they are
27 domiciled, and operating in compliance with Prescription Drug

1 Marketing Act standards, shall be allowed to do business in
2 this state. No permit shall be required of any physician
3 licensed to practice medicine for any act or conduct related
4 to or connected with his or her professional practice.

5 "(16) PERSON. Any individual, partnership,
6 corporation, association, trust, or other entity.

7 "(17) PHARMACIST. Any person licensed by the Alabama
8 State Board of Pharmacy to practice the profession of pharmacy
9 in the State of Alabama and whose license is in good standing.

10 "(18) PHARMACY. A place licensed by the Alabama
11 State Board of Pharmacy in which prescriptions, drugs,
12 medicines, medical devices, chemicals, and poisons are sold,
13 offered for sale, compounded, or dispensed, and shall include
14 all places whose title may imply the sale, offering for sale,
15 compounding, or dispensing of prescriptions, drugs, medicines,
16 chemicals, or poisons.

17 "(19) PHARMACY SERVICES PERMIT. The grant of
18 authority by the board to any person, firm, or corporation
19 which offers or performs pharmacy services. Pharmacy services
20 shall be defined by board rule, but shall not include any
21 requirement for the receipt or inventory of any drugs,
22 medicines, medical devices, chemicals, or poisons. The board
23 shall further provide, by rule, qualifications and fees for
24 the issuance of the permit.

25 "~~(19)~~(20) POISON. Any substance other than
26 agricultural products and pesticides which when applied to,
27 introduced into, or developed within the body in relatively

1 small quantities by its inherent chemical action uniformly
2 produces serious bodily injury, disease, or death.

3 "~~(20)~~(21) PRECEPTOR. A person who is duly licensed
4 to practice pharmacy in the state and meets the requirements
5 as established by the State Board of Pharmacy.

6 "~~(21)~~(22) PRESCRIPTION. Any order for drug or
7 medical supplies, written or signed or transmitted by word of
8 mouth, telephone, telegraph, closed circuit television, or
9 other means of communication by a legally competent
10 practitioner, licensed by law to prescribe and administer such
11 drugs and medical supplies intended to be filled, compounded,
12 or dispensed by a pharmacist.

13 "~~(22)~~(23) PROFESSIONAL DEGREE. A degree in pharmacy
14 requiring a minimum of five academic years.

15 "~~(23)~~(24) REPACKAGER. A person who purchases or
16 acquires from a manufacturer or distributor, a drug, medicine,
17 chemical, or poison for the purpose of bottling, labeling, or
18 otherwise repackaging for sale or distribution. This
19 definition shall not apply to a physician licensed to practice
20 medicine who as a part of his or her professional practice
21 dispenses, administers, sells, or otherwise distributes any
22 drug to a patient.

23 "~~(24)~~(25) SALE. Barter, exchange, or gift, or offer
24 of barter, exchange, or gift, and shall include each
25 transaction made by any person, whether a principal,
26 proprietor, agent, servant, or employee.

1 "~~(25)~~(26) WHOLESAL E DRUG DISTRIBUTORS. A person
2 engaged in the business of distributing drugs and medicines
3 for resale to pharmacies, hospitals, practitioners, government
4 agencies, or other lawful outlets permitted to sell drugs or
5 medicines. The sale, purchase, or trade of a drug by a retail
6 pharmacy to another retail pharmacy or practitioner, for
7 relief of temporary shortages, is exempt from this definition.
8 Also exempt from this definition shall be (a) intracompany
9 sales, (b) manufacturer and distributor sales representatives
10 who distribute drug samples, (c) charitable organizations
11 distributing to nonprofit affiliates of that organization, (d)
12 certain purchases by hospitals or other health care entities
13 that are members of a group purchasing organization, and (e)
14 the distributors of blood and blood components."

15 Section 2. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.