

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1754

Session of
2005

INTRODUCED BY DeLUCA, BEBKO-JONES, BIANCUCCI, BLACKWELL,
CALTAGIRONE, CURRY, GINGRICH, JAMES, SIPTROTH, STABACK,
WALKO, YOUNGBLOOD, KOTIK, PISTELLA, CASORIO AND GRUCELA,
JUNE 21, 2005

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 2, 2006

AN ACT

1 Amending the act of September 27, 1961 (P.L.1700, No.699),
2 entitled "An act relating to the regulation of the practice
3 of pharmacy, including the sales, use and distribution of
4 drugs and devices at retail; and amending, revising,
5 consolidating and repealing certain laws relating thereto,"
6 ~~further providing for definitions; and providing for~~ <—
7 ~~registration, qualifications and supervision of pharmacy~~
8 ~~technicians.~~ FURTHER PROVIDING FOR DEFINITIONS; PROVIDING FOR <—
9 LICENSURE AND PERMITS FOR PHARMACY TECHNICIANS; AND FURTHER
10 PROVIDING FOR MULTIPLE LICENSURE, FOR SANCTIONS, FOR
11 ADMINISTRATION, FOR REINSTATEMENT, FOR PENALTIES AND FOR
12 INJUNCTIONS.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Section 2 of the act of September 27, 1961~~ <—
16 ~~(P.L.1700, No.699), known as the Pharmacy Act, is amended by~~
17 ~~adding clauses to read:~~

18 ~~Section 2. Definitions. As used in this act:~~

19 ~~* * *~~

20 ~~(19) "Pharmacy technician" means an individual who is~~
21 ~~registered with the State Board of Pharmacy as a pharmacy~~

~~technician and who may assist in the practice of pharmacy under the immediate supervision of a licensed pharmacist after meeting the requirements of this act and the regulations promulgated pursuant to this act.~~

~~(20) "Pharmacy technician trainee" means an individual who has been issued a temporary permit by the State Board of Pharmacy which authorizes that individual to perform the duties of a pharmacy technician under the immediate supervision of a licensed pharmacist.~~

~~(21) "Immediate supervision" means a level of control which assures that a pharmacist has the ultimate responsibility for the accuracy, safety and patient outcome with respect to the actions of pharmacy technicians and pharmacist interns and the use of automation in all practice settings.~~

~~Section 2. The act is amended by adding a section to read:~~

~~Section 3.3. Pharmacy Technician Registration, Qualifications and Supervision. (a) The board may promulgate regulations governing the use of pharmacy technicians and the duties of pharmacy technicians in pharmacies licensed by the board. Regulations shall provide that pharmacy technicians be responsible to and under the immediate supervision of a pharmacist licensed by the board.~~

~~(b) A pharmacy technician shall register with the board biennially, on a form prescribed by the board, and pay a registration fee as determined by the board. The board may promulgate regulations governing the registration of pharmacy technicians and standards for recognition and approval of training programs for pharmacy technicians. The regulations shall require that a pharmacy technician:~~

~~(1) have a high school diploma or a high school equivalency~~

~~certificate or be working to achieve an equivalent diploma or certificate;~~

~~(2) except as set forth in subsection (g), have passed a board approved pharmacy technician certification examination; and~~

~~(3) have completed a board approved training program for pharmacy technicians.~~

~~(c) The board shall renew, revoke or suspend the registration of pharmacy technicians pursuant to regulations promulgated by the board. This subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).~~

~~(d) Unless ordered to do so by a court, the board shall not reinstate the registration of an individual whose registration to practice as a pharmacy technician has been revoked. If an individual desires to practice after revocation, the individual must apply for registration no sooner than five years after revocation in accordance with this section.~~

~~(e) Upon the submission of a written application, on forms provided by it, the board shall issue a temporary permit to an applicant who has met all of the requirements of subsection (b)(1) and who is eligible to take the examination provided for in subsection (b)(2). The board shall issue only one temporary permit to an applicant, and the temporary permit shall expire one year after the date of issue. Issuance by the board of a temporary permit shall authorize the applicant to perform the duties of a pharmacy technician as defined in this act. Upon expiration, the temporary permit shall be promptly returned by the applicant to the board.~~

~~(f) A pharmacy technician shall wear a name tag that clearly identifies the pharmacy technician with the title "registered pharmacy technician." A holder of a temporary permit issued pursuant to subsection (c) shall wear a name tag that clearly identifies the temporary permit holder with the title "pharmacy technician trainee."~~

~~(g) The requirements of subsection (b)(2) shall not apply and a registration shall be issued without examination to an applicant who:~~

~~(1) has submitted an application for registration, accompanied by the required fee, within one year of the board's promulgation of final regulations required by this section; and~~

~~(2) demonstrates proof of practice as a pharmacy technician for at least three consecutive years immediately prior to the date of application for registration.~~

~~Section 3. The board shall promulgate the regulations required by section 3.3 of the act within 18 months of the effective date of this section.~~

~~Section 4. No person is required to register as a pharmacy technician under section 3.3 of the act until 18 months after the board has promulgated the regulations required by that section.~~

~~Section 5. This act shall take effect immediately.~~

SECTION 1. SECTION 2 OF THE ACT OF SEPTEMBER 27, 1961 (P.L.1700, NO.699), KNOWN AS THE PHARMACY ACT, IS AMENDED BY ADDING CLAUSES TO READ:

SECTION 2. DEFINITIONS.--AS USED IN THIS ACT:

* * *

(19) "PHARMACY TECHNICIAN" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE STATE BOARD OF PHARMACY UNDER SECTION 2.1 TO

1 ASSIST IN THE PRACTICE OF PHARMACY.

2 (20) "PHARMACY TECHNICIAN TRAINEE" MEANS AN INDIVIDUAL WHO
3 HOLDS A TEMPORARY PERMIT ISSUED BY THE STATE BOARD OF PHARMACY
4 UNDER SECTION 2.1.

5 (21) "DIRECT, IMMEDIATE AND PERSONAL SUPERVISION OF A
6 PHARMACIST" MEANS:

7 (I) REVIEW BY THE PHARMACIST OF THE PRESCRIPTION OR DRUG
8 ORDER PRIOR TO DISPENSING;

9 (II) VERIFICATION BY THE PHARMACIST OF THE FINAL PRODUCT;
10 AND

11 (III) THE PHARMACIST'S IMMEDIATE AVAILABILITY ON THE
12 PREMISES TO DIRECT THE WORK OF THE SUPERVISED INDIVIDUAL AND TO
13 RESPOND TO QUESTIONS OR PROBLEMS.

14 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

15 SECTION 2.1. LICENSES AND PERMITS FOR PHARMACY

16 TECHNICIANS.--(A) THE BOARD MAY LICENSE AS A PHARMACY

17 TECHNICIAN ANY INDIVIDUAL WHO PAYS AN APPLICATION FEE PRESCRIBED

18 BY REGULATION; WHO FILES AN APPLICATION FOR LICENSURE,

19 SUBSCRIBED BY THE INDIVIDUAL UNDER OATH OR AFFIRMATION,

20 CONTAINING INFORMATION THE BOARD REQUIRES; AND WHO, EXCEPT AS

21 SET FORTH IN SUBSECTION (B), COMPLIES WITH ALL OF THE FOLLOWING:

22 (1) IS NOT LESS THAN EIGHTEEN YEARS OF AGE AND IS A CITIZEN
23 OF THE UNITED STATES.

24 (2) HAS A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT.

25 (3) HAS SATISFIED THE BOARD THAT THE APPLICANT IS OF GOOD
26 MORAL CHARACTER, AND IS NOT UNFIT OR UNABLE TO PRACTICE AS A
27 PHARMACY TECHNICIAN BY REASON OF THE EXTENT OR MANNER OF HIS USE
28 OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES OR BY REASON OF
29 A PHYSICAL OR MENTAL DISABILITY.

30 (4) HAS COMPLETED A PHARMACY TECHNICIAN TRAINING PROGRAM

1 APPROVED BY THE BOARD.

2 (5) HAS PASSED A NATIONALLY RECOGNIZED PHARMACY TECHNICIAN
3 CERTIFICATION EXAMINATION APPROVED BY THE BOARD.

4 (6) HAS NOT BEEN CONVICTED OF A FELONIOUS ACT PROHIBITED BY
5 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS "THE
6 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," OR
7 CONVICTED OF A FELONY RELATING TO A CONTROLLED SUBSTANCE IN A
8 COURT OF LAW OF THE UNITED STATES OR ANY OTHER STATE, TERRITORY
9 OR COUNTRY UNLESS:

10 (I) AT LEAST TEN YEARS HAVE ELAPSED FROM THE DATE OF
11 CONVICTION; AND

12 (II) THE APPLICANT SATISFACTORILY DEMONSTRATES TO THE BOARD
13 THAT THE APPLICANT HAS MADE SIGNIFICANT PROGRESS IN PERSONAL
14 REHABILITATION SINCE THE CONVICTION SUCH THAT LICENSURE OF THE
15 APPLICANT SHOULD NOT BE EXPECTED TO CREATE A SUBSTANTIAL RISK OF
16 HARM TO THE HEALTH AND SAFETY OF PATIENTS OR THE PUBLIC OR A
17 SUBSTANTIAL RISK OF FURTHER CRIMINAL VIOLATIONS.

18 AS USED IN THIS CLAUSE THE TERM "CONVICTED" SHALL INCLUDE A
19 JUDGMENT, AN ADMISSION OF GUILT OR A PLEA OF NOLO CONTENDERE. AN
20 APPLICANT'S STATEMENT ON THE APPLICATION DECLARING THE ABSENCE
21 OF A CONVICTION SHALL BE DEEMED SATISFACTORY EVIDENCE OF THE
22 ABSENCE OF A CONVICTION, UNLESS THE BOARD HAS SOME EVIDENCE TO
23 THE CONTRARY.

24 (B) THE FOLLOWING APPLY:

25 (1) NOTWITHSTANDING SUBSECTION (A)(4) AND (5), THE BOARD
26 SHALL ISSUE A LICENSE TO ALL OF THE FOLLOWING:

27 (I) AN INDIVIDUAL WHO, AT THE TIME OF FILING AN APPLICATION,
28 HAS OBTAINED A LICENSE OR ITS EQUIVALENT AS A PHARMACY
29 TECHNICIAN IN ANOTHER STATE, TERRITORY OR POSSESSION OF THE
30 UNITED STATES WHICH HAS LICENSING REQUIREMENTS COMPARABLE TO

1 THOSE SET FORTH IN THIS SECTION AND REGULATIONS OF THE BOARD.

2 (II) AN INDIVIDUAL WHO:

3 (A) APPLIES FOR LICENSURE WITHIN ONE YEAR AFTER THE
4 EFFECTIVE DATE OF THIS SECTION; AND

5 (B) ON THE EFFECTIVE DATE OF THIS SECTION MAINTAINS A
6 CURRENT CERTIFICATION BY A NATIONALLY RECOGNIZED PHARMACY
7 TECHNICIAN ASSOCIATION.

8 (2) NOTWITHSTANDING SUBSECTION (A)(2), (4) AND (5), THE
9 BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO:

10 (I) APPLIES FOR LICENSURE WITHIN ONE YEAR AFTER THE EFFECTIVE
11 DATE OF THIS SECTION; AND

12 (II) DEMONSTRATES TO THE SATISFACTION OF THE BOARD PROOF OF
13 PRACTICE AS A PHARMACY TECHNICIAN FOR AT LEAST TWO THOUSAND
14 HOURS IMMEDIATELY PRIOR TO THE DATE OF APPLICATION.

15 (C) A LICENSE SHALL AUTHORIZE THE LICENSEE TO ASSIST IN THE
16 PRACTICE OF PHARMACY UNDER THE DIRECT, IMMEDIATE AND PERSONAL
17 SUPERVISION OF A PHARMACIST.

18 (D) A LICENSE IS SUBJECT TO BIENNIAL RENEWAL. THE BOARD
19 SHALL ESTABLISH A FEE FOR RENEWAL BY REGULATION.

20 (E) THE FOLLOWING APPLY TO PHARMACY TECHNICIAN TRAINEES:

21 (1) THE BOARD SHALL ISSUE A TEMPORARY PERMIT TO PRACTICE AS
22 A PHARMACY TECHNICIAN TRAINEE TO AN APPLICANT WHO IS 17 YEARS OF
23 AGE OR OLDER AND MEETS THE REQUIREMENTS OF SUBSECTION (A)(3) AND
24 (6).

25 (2) A TEMPORARY PRACTICE PERMIT SHALL BE ISSUED FOR ONE YEAR
26 AND MAY BE EXTENDED FOR A SINGLE SIX-MONTH PERIOD UPON
27 VERIFICATION TO THE SATISFACTION OF THE BOARD THAT THE TRAINEE
28 HAS COMPLETED THE BOARD-APPROVED TRAINING PROGRAM.

29 (3) A TEMPORARY PERMIT SHALL NOT BE REISSUED.

30 (4) A TEMPORARY PERMIT SHALL AUTHORIZE THE PERMITTEE TO

1 PERFORM THE DUTIES OF A PHARMACY TECHNICIAN UNDER THE DIRECT,
2 IMMEDIATE AND PERSONAL SUPERVISION OF A PHARMACIST.

3 (F) IDENTIFICATION REQUIREMENTS ARE AS FOLLOWS:

4 (1) A PHARMACY TECHNICIAN SHALL WEAR A NAME TAG THAT CLEARLY
5 IDENTIFIES THE PHARMACY TECHNICIAN WITH THE TITLE "LICENSED
6 PHARMACY TECHNICIAN."

7 (2) A HOLDER OF A TEMPORARY PERMIT SHALL WEAR A NAME TAG
8 THAT CLEARLY IDENTIFIES THE TEMPORARY PERMIT HOLDER WITH THE
9 TITLE "PHARMACY TECHNICIAN TRAINEE."

10 (G) THIS SECTION SHALL NOT APPLY TO A STUDENT WHO IS
11 ENROLLED IN AN ACCREDITED SCHOOL OF PHARMACY AND WHO IS IN THE
12 FIRST OR SECOND YEAR OF THE PROGRAM.

13 SECTION 3. SECTION 3.2 OF THE ACT, ADDED DECEMBER 20, 1985
14 (P.L.433, NO.111), IS AMENDED TO READ:

15 SECTION 3.2. REPORTING OF MULTIPLE LICENSURE.--ANY
16 [LICENSED] PHARMACIST OR PHARMACY TECHNICIAN OF THIS
17 COMMONWEALTH WHO IS ALSO LICENSED [TO PRACTICE PHARMACY] IN ANY
18 OTHER STATE, TERRITORY OR COUNTRY SHALL REPORT THIS INFORMATION
19 TO THE BOARD ON THE BIENNIAL REGISTRATION APPLICATION. ANY
20 DISCIPLINARY ACTION TAKEN IN OTHER STATES, TERRITORIES AND
21 COUNTRIES SHALL BE REPORTED TO THE BOARD ON THE BIENNIAL
22 REGISTRATION APPLICATION OR WITHIN NINETY DAYS OF FINAL
23 DISPOSITION, WHICHEVER IS SOONER. MULTIPLE LICENSURE SHALL BE
24 NOTED BY THE BOARD ON THE [PHARMACIST'S] LICENSEE'S RECORD, AND
25 SUCH STATE, TERRITORY OR COUNTRY SHALL BE NOTIFIED BY THE BOARD
26 OF ANY DISCIPLINARY ACTIONS TAKEN AGAINST [SAID PHARMACIST] THAT
27 LICENSEE IN THIS COMMONWEALTH.

28 SECTION 4. SECTION 5(C) OF THE ACT, AMENDED DECEMBER 20, 1985
29 (P.L.433, NO.111), IS AMENDED AND THE SECTION IS AMENDED BY
30 ADDING A SUBSECTION TO READ:

SECTION 5. REFUSAL TO GRANT, REVOCATION AND SUSPENSION.--* *

*

(A.1) THE BOARD SHALL HAVE THE POWER TO REFUSE, REVOKE OR
SUSPEND THE LICENSE OF ANY PHARMACY TECHNICIAN UPON PROOF
SATISFACTORY TO IT THAT THE PHARMACY TECHNICIAN HAS DONE ANY OF
THE FOLLOWING:

(1) PROCURED A PERSONAL LICENSE THROUGH FRAUD,
MISREPRESENTATION OR DECEIT.

(2) HAS BEEN FOUND GUILTY, PLEADED GUILTY, ENTERED A PLEA OF
NOLO CONTENDERE, OR HAS RECEIVED PROBATION WITHOUT VERDICT,
DISPOSITION IN LIEU OF TRIAL OR AN ACCELERATED REHABILITATIVE
DISPOSITION IN THE DISPOSITION OF FELONY CHARGES, TO ANY OFFENSE
IN CONNECTION WITH THE PRACTICE OF PHARMACY OR ANY OFFENSE
INVOLVING MORAL TURPITUDE BEFORE ANY COURT OF RECORD OF ANY
JURISDICTION.

(3) IS UNFIT TO PRACTICE AS A PHARMACY TECHNICIAN BECAUSE OF
INTEMPERANCE IN THE USE OF ALCOHOLIC BEVERAGES, CONTROLLED
SUBSTANCES OR ANY OTHER SUBSTANCE WHICH IMPAIRS THE INTELLECT
AND JUDGMENT TO SUCH AN EXTENT AS TO IMPAIR THE PERFORMANCE OF
PROFESSIONAL DUTIES.

(4) IS UNFIT OR UNABLE TO PRACTICE AS A PHARMACY TECHNICIAN
BY REASON OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY. IN
ENFORCING THIS CLAUSE, THE BOARD SHALL, UPON PROBABLE CAUSE,
HAVE AUTHORITY TO COMPEL A PHARMACY TECHNICIAN TO SUBMIT TO A
MENTAL OR PHYSICAL EXAMINATION BY PHYSICIANS OR PSYCHOLOGISTS
APPROVED BY THE BOARD. FAILURE OF A PHARMACY TECHNICIAN TO
SUBMIT TO EXAMINATION WHEN DIRECTED BY THE BOARD, UNLESS DUE TO
CIRCUMSTANCES BEYOND THE PHARMACY TECHNICIAN'S CONTROL, SHALL
CONSTITUTE AN ADMISSION OF THE ALLEGATIONS AGAINST THE PHARMACY
TECHNICIAN, CONSEQUENT UPON WHICH A DEFAULT AND FINAL ORDER MAY

1 BE ENTERED WITHOUT THE TAKING OF TESTIMONY OR PRESENTATION OF
2 EVIDENCE. A PHARMACY TECHNICIAN AFFECTED UNDER THIS CLAUSE SHALL
3 AT REASONABLE INTERVALS BE AFFORDED AN OPPORTUNITY TO
4 DEMONSTRATE THAT ABILITY TO RESUME A COMPETENT PRACTICE AS A
5 PHARMACY TECHNICIAN WITH REASONABLE SKILL AND SAFETY TO
6 PATIENTS.

7 (5) HAS HAD A LICENSE TO PRACTICE AS A PHARMACY TECHNICIAN
8 DENIED, REVOKED OR SUSPENDED BY AN APPROPRIATE PHARMACY
9 TECHNICIAN LICENSING AUTHORITY OR HAS RECEIVED DISCIPLINARY
10 ACTION FROM AN APPROPRIATE PHARMACY TECHNICIAN LICENSING
11 AUTHORITY.

12 (6) HAS ACTED IN SUCH A MANNER AS TO PRESENT AN IMMEDIATE
13 AND CLEAR DANGER TO THE PUBLIC HEALTH OR SAFETY.

14 (7) IS GUILTY OF INCOMPETENCE, GROSS NEGLIGENCE OR OTHER
15 MALPRACTICE, OR THE DEPARTURE FROM, OR FAILURE TO CONFORM TO,
16 THE STANDARDS OF ACCEPTABLE AND PREVAILING PHARMACY TECHNICIAN
17 PRACTICE, IN WHICH CASE ACTUAL INJURY NEED NOT BE ESTABLISHED.

18 * * *

19 (C) WHEN THE BOARD FINDS THAT [THE] A LICENSE [OF ANY
20 PHARMACIST] MAY BE REFUSED, REVOKED OR SUSPENDED UNDER THE TERMS
21 OF SUBSECTION (A) OR (A.1), THE BOARD MAY:

22 (1) DENY THE APPLICATION FOR A LICENSE.

23 (2) ADMINISTER A PUBLIC REPRIMAND.

24 (3) REVOKE, SUSPEND, LIMIT OR OTHERWISE RESTRICT A LICENSE
25 AS DETERMINED BY THE BOARD.

26 (4) REQUIRE A LICENSEE TO SUBMIT TO THE CARE, COUNSELING OR
27 TREATMENT OF A PHYSICIAN OR A PSYCHOLOGIST DESIGNATED BY THE
28 BOARD. THIS CLAUSE DOES NOT APPLY TO A PHARMACY TECHNICIAN.

29 (5) SUSPEND ENFORCEMENT OF ITS FINDING THEREOF AND PLACE A
30 LICENSEE ON PROBATION WITH THE RIGHT TO VACATE THE PROBATIONARY

1 ORDER FOR NONCOMPLIANCE.

2 (6) RESTORE OR REISSUE, IN ITS DISCRETION, A SUSPENDED
3 LICENSE [TO PRACTICE PHARMACY] AND IMPOSE ANY DISCIPLINARY OR
4 CORRECTIVE MEASURE WHICH IT MIGHT ORIGINALLY HAVE IMPOSED.

5 * * *

6 SECTION 5. SECTION 6(K) OF THE ACT, AMENDED DECEMBER 20,
7 1985 (P.L.433, NO.111), IS AMENDED TO READ:

8 SECTION 6. STATE BOARD OF PHARMACY.--* * *

9 (K) THE BOARD SHALL HAVE THE POWER, AND IT SHALL BE ITS
10 DUTY:

11 (1) TO REGULATE THE PRACTICE OF PHARMACY AND OF PHARMACY
12 TECHNICIANS;

13 (2) TO DETERMINE THE NATURE OF EXAMINATIONS FOR ALL
14 APPLICANTS FOR [PHARMACISTS'] LICENSES;

15 (3) TO EXAMINE, INSPECT AND INVESTIGATE ALL APPLICATIONS AND
16 ALL APPLICANTS FOR LICENSURE AS PHARMACISTS, PHARMACY
17 TECHNICIANS, PHARMACIES OR REGISTRATION AS PHARMACY INTERNS AND
18 TO GRANT CERTIFICATES OF LICENSURE OR REGISTRATION TO ALL
19 APPLICANTS WHOM IT SHALL JUDGE TO BE PROPERLY QUALIFIED;

20 (4) WITH THE APPROVAL OF THE COMMISSIONER OF PROFESSIONAL
21 AND OCCUPATIONAL AFFAIRS, TO PREPARE POSITION DESCRIPTIONS,
22 EMPLOY INSPECTORS WHO SHALL BE LICENSED PHARMACISTS AND EMPLOY
23 APPROPRIATE CONSULTANTS TO ASSIST IT FOR ANY PURPOSES WHICH IT
24 MAY DEEM NECESSARY, PROVIDED THAT THE BOARD MAY NOT DELEGATE ANY
25 OF ITS FINAL DECISIONMAKING RESPONSIBILITIES TO ANY CONSULTANT;

26 (5) TO INVESTIGATE OR CAUSE TO BE INVESTIGATED ALL
27 VIOLATIONS OF THE PROVISIONS OF THIS ACT AND ITS REGULATIONS AND
28 TO CAUSE PROSECUTIONS TO BE INSTITUTED IN THE COURTS UPON ADVICE
29 FROM THE ATTORNEY GENERAL;

30 (6) TO MAKE OR ORDER INSPECTIONS OF ALL PHARMACIES, EXCEPT

1 HEALTH CARE FACILITIES, AS DEFINED IN THE ACT OF JULY 19, 1979
2 (P.L.130, NO.48), KNOWN AS THE "HEALTH CARE FACILITIES ACT," AND
3 WHICH ARE PERIODICALLY INSPECTED BY THE DEPARTMENT OF HEALTH IN
4 ACCORDANCE WITH THE STANDARDS IN THIS ACT AND THE BOARD'S
5 REGULATIONS PROMULGATED THERETO: PROVIDED, THAT THE DEPARTMENT
6 OF HEALTH SHALL FORWARD A COPY OF THEIR INSPECTION REPORT TO THE
7 BOARD NOTING ANY VIOLATIONS OF THE ACT: AND, PROVIDED FURTHER,
8 THAT, IF A VIOLATION IS REPORTED, THE BOARD SHALL HAVE THE POWER
9 TO INSPECT SUCH PHARMACIES AND TAKE APPROPRIATE ACTION AS
10 SPECIFIED IN THIS ACT; AND TO MAKE OR ORDER INSPECTIONS OF OTHER
11 PLACES IN WHICH DRUGS OR DEVICES ARE STORED, HELD, COMPOUNDED,
12 DISPENSED OR SOLD TO A CONSUMER, TO TAKE AND ANALYZE ANY DRUGS
13 OR DEVICES AND TO SEIZE AND CONDEMN ANY DRUGS OR DEVICES WHICH
14 ARE ADULTERATED, MISBRANDED OR STORED, HELD, DISPENSED,
15 DISTRIBUTED OR COMPOUNDED IN VIOLATION OF THE PROVISIONS OF THIS
16 ACT OR THE PROVISIONS OF THE ACT OF APRIL 14, 1972 (P.L.233,
17 NO.64), KNOWN AS "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
18 COSMETIC ACT";

19 (7) TO CONDUCT HEARINGS FOR THE REVOCATION OR SUSPENSION OF
20 LICENSES, PERMITS OR REGISTRATIONS, FOR WHICH HEARINGS THE BOARD
21 SHALL HAVE THE POWER TO SUBPOENA WITNESSES;

22 (8) TO ASSIST THE REGULARLY CONSTITUTED ENFORCEMENT AGENCIES
23 OF THIS COMMONWEALTH IN ENFORCING ALL LAWS PERTAINING TO DRUGS,
24 CONTROLLED SUBSTANCES, AND PRACTICE OF PHARMACY;

25 (8.1) TO APPROVE PROGRAMS FOR THE TRAINING OF PHARMACY
26 TECHNICIANS.

27 (9) TO PROMULGATE RULES AND REGULATIONS TO EFFECTUATE THE
28 PURPOSES OF THIS ACT AND TO REGULATE THE DISTRIBUTION OF DRUGS
29 AND DEVICES AND THE PRACTICE OF PHARMACY FOR THE PROTECTION AND
30 PROMOTION OF THE PUBLIC HEALTH, SAFETY AND WELFARE.

1 * * *

2 SECTION 5.1. SECTION 7 OF THE ACT IS AMENDED BY ADDING A
3 SUBSECTION TO READ:

4 SECTION 7. HEARINGS AND SUSPENSIONS.--* * *

5 (E) NOTWITHSTANDING ANY OTHER PROVISION, SUBSECTIONS (D.3),
6 (D.4), (D.5), (D.6), (D.7) AND (D.8) SHALL NOT APPLY TO PHARMACY
7 TECHNICIANS.

8 SECTION 5.2. SECTIONS 7.1, 8(2) AND (8) AND 8.1 OF THE ACT,
9 AMENDED OR ADDED DECEMBER 20, 1985 (P.L.433, NO.111), ARE
10 AMENDED TO READ:

11 SECTION 7.1. REINSTATEMENT OF LICENSE, CERTIFICATE OR
12 REGISTRATION.--UNLESS ORDERED TO DO SO BY COMMONWEALTH COURT OR
13 AN APPEAL THEREFROM, THE BOARD SHALL NOT REINSTATE THE LICENSE,
14 CERTIFICATE OR REGISTRATION OF A PERSON TO PRACTICE [PHARMACY]
15 PURSUANT TO THIS ACT WHICH HAS BEEN REVOKED. ANY PERSON WHOSE
16 LICENSE, CERTIFICATE OR REGISTRATION HAS BEEN REVOKED MAY APPLY
17 FOR REINSTATEMENT, AFTER A PERIOD OF AT LEAST FIVE YEARS, BUT
18 MUST MEET ALL OF THE LICENSING QUALIFICATIONS OF THIS ACT FOR
19 THE LICENSE APPLIED FOR, TO INCLUDE THE EXAMINATION REQUIREMENT,
20 IF HE OR SHE DESIRES TO PRACTICE AT ANY TIME AFTER SUCH
21 REVOCATION.

22 SECTION 8. UNLAWFUL ACTS.--IT SHALL BE UNLAWFUL FOR:

23 * * *

24 (2) ANY PERSON NOT DULY LICENSED AS A PHARMACIST, PURSUANT
25 TO SECTION 3 HEREOF, TO ENGAGE IN THE PRACTICE OF PHARMACY,
26 INCLUDING THE PREPARING, COMPOUNDING, DISPENSING, SELLING OR
27 DISTRIBUTING AT RETAIL TO ANY PERSON ANY DRUG, EXCEPT BY A
28 PHARMACY INTERN, PHARMACY TECHNICIAN OR SUCH OTHER AUTHORIZED
29 PERSONNEL UNDER THE DIRECT AND IMMEDIATE PERSONAL SUPERVISION OF
30 A PHARMACIST: PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE

1 CONSTRUED TO PREVENT A DULY LICENSED MEDICAL PRACTITIONER FROM
2 DISPENSING, COMPOUNDING OR OTHERWISE GIVING ANY DRUG TO HIS OWN
3 PATIENTS AFTER DIAGNOSIS OR TREATMENT OF SAID PATIENT, IF SUCH
4 COMPOUNDING, PREPARING AND DISPENSING IS DONE BY SAID LICENSEE
5 HIMSELF, NOR SHALL ANYTHING HEREIN PREVENT ANY PERSON FROM
6 SELLING OR DISTRIBUTING AT RETAIL HOUSEHOLD REMEDIES OR
7 PROPRIETARY MEDICINES WHEN THE SAME ARE OFFERED FOR SALE OR SOLD
8 IN THE ORIGINAL PACKAGES WHICH HAVE BEEN PUT UP READY FOR SALE
9 TO CONSUMERS, PROVIDED HOUSEHOLD REMEDIES OR PROPRIETARY
10 MEDICINES SHALL NOT INCLUDE ANY CONTROLLED SUBSTANCES OR NON-
11 PROPRIETARY DRUG UNDER THE ACT OF APRIL 14, 1972 (P.L.233,
12 NO.64), KNOWN AS "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
13 COSMETIC ACT."

14 * * *

15 (8) ANY PERSON, FIRM OR CORPORATION TO USE THE TITLE
16 "PHARMACIST", "ASSISTANT PHARMACIST", "PHARMACY TECHNICIAN",
17 "PHARMACY TECHNICIAN TRAINEE", "DRUGGIST"[,] OR "APOTHECARY",
18 EXCEPT A PERSON DULY LICENSED AS A PHARMACIST OR A PHARMACY
19 TECHNICIAN IN PENNSYLVANIA, OR ANY PERSON TO CONDUCT OR TRANSACT
20 BUSINESS UNDER A NAME WHICH CONTAINS AS PART THEREOF THE WORDS
21 "DRUG STORE", "PHARMACY", "DRUGS", "MEDICINE STORE",
22 "MEDICINES", "DRUG SHOP," "APOTHECARY," "PHARMACEUTICAL,"
23 "HOMEOPATHIC," "HOMEOPATHY" OR ANY TERM HAVING A SIMILAR
24 MEANING, OR IN ANY MANNER BY ADVERTISEMENT, DISPLAY OF SHOW
25 GLOBES OR OTHERWISE DESCRIBE OR REFER TO THE PLACE OF THE
26 CONDUCTED BUSINESS OR PERSON, UNLESS THE PLACE IS A PHARMACY
27 DULY ISSUED A PERMIT BY THE STATE BOARD OF PHARMACY.

28 * * *

29 SECTION 8.1. INJUNCTION.--IT SHALL BE UNLAWFUL FOR ANY
30 PERSON TO PRACTICE OR ATTEMPT TO OFFER TO PRACTICE PHARMACY OR

1 AS A PHARMACY TECHNICIAN, AS DEFINED IN THIS ACT, WITHOUT HAVING
2 AT THE TIME OF SO DOING A VALID, UNEXPIRED, UNREVOKED AND
3 UNSUSPENDED LICENSE ISSUED UNDER THIS ACT. THE UNLAWFUL PRACTICE
4 OF PHARMACY AS DEFINED IN THIS ACT MAY BE ENJOINED BY THE COURTS
5 ON PETITION OF THE BOARD OR THE COMMISSIONER OF PROFESSIONAL AND
6 OCCUPATIONAL AFFAIRS. IN ANY SUCH PROCEEDING IT SHALL NOT BE
7 NECESSARY TO SHOW THAT ANY PERSON IS INDIVIDUALLY INJURED BY THE
8 ACTIONS COMPLAINED OF. IF IT IS FOUND THAT THE RESPONDENT HAS
9 ENGAGED IN THE UNLAWFUL PRACTICE OF PHARMACY, THE COURT SHALL
10 ENJOIN HIM OR HER FROM SO PRACTICING UNLESS AND UNTIL HE OR SHE
11 HAS BEEN DULY LICENSED. PROCEDURE IN SUCH CASES SHALL BE THE
12 SAME AS IN ANY OTHER INJUNCTION SUIT. THE REMEDY BY INJUNCTION
13 HEREBY GIVEN IS IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL
14 PROSECUTION AND PUNISHMENT.

15 SECTION 6. THE STATE BOARD OF PHARMACY SHALL PROMULGATE
16 REGULATIONS TO IMPLEMENT SECTION 2.1 OF THE ACT WITHIN 18 MONTHS
17 OF THE EFFECTIVE DATE OF THIS SECTION.

18 SECTION 7. NO INDIVIDUAL IS REQUIRED TO BE LICENSED AS A
19 PHARMACY TECHNICIAN UNDER SECTION 2.1 OF THE ACT UNTIL 18 MONTHS
20 AFTER THE STATE BOARD OF PHARMACY HAS PROMULGATED REGULATIONS
21 UNDER SECTION 6 OF THIS ACT.

22 SECTION 8. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.