

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1250 Session of 2007

INTRODUCED BY KULA, EACHUS, KORTZ, SOLOBAY, MAHONEY, JOSEPHS, TANGRETTI, WALKO, FREEMAN, PRESTON, MOUL, SAYLOR, EVERETT, WATSON, GIBBONS, DALEY, SIPTROTH, HORNAMAN, FABRIZIO, JAMES AND PASHINSKI, MAY 8, 2007

AS AMENDED, COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF REPRESENTATIVES, JUNE 27, 2007

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 drug therapy protocols.~~

7 AMENDING THE ACT OF SEPTEMBER 27, 1961 (P.L.1700, NO.699), <—
8 ENTITLED "AN ACT RELATING TO THE REGULATION OF THE PRACTICE
9 OF PHARMACY, INCLUDING THE SALES, USE AND DISTRIBUTION OF
10 DRUGS AND DEVICES AT RETAIL; AND AMENDING, REVISING,
11 CONSOLIDATING AND REPEALING CERTAIN LAWS RELATING THERETO,"
12 FURTHER PROVIDING FOR DEFINITIONS; PROVIDING FOR REGISTRATION
13 AND PERMITS FOR PHARMACY TECHNICIANS; AND FURTHER PROVIDING
14 FOR MULTIPLE LICENSURE, FOR REFUSAL TO GRANT REVOCATION AND
15 SUSPENSION, FOR STATE BOARD OF PHARMACY, FOR HEARINGS AND
16 SUSPENSIONS, FOR REINSTATEMENT, FOR DRUG THERAPY PROTOCOLS
17 AND FOR PENALTIES.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 ~~Section 1. Section 9.1(a) of the act of September 27, 1961 <—
21 (P.L.1700, No.699), known as the Pharmacy Act, added June 29,
22 2002 (P.L.673, No.102), is amended to read:~~

23 ~~Section 9.1. Drug Therapy Protocols. (a) A pharmacist
24 shall be permitted to enter into a written agreement or protocol~~

1 ~~with a licensed physician authorizing the management of drug~~
2 ~~therapy in an institutional setting. For purposes of this~~
3 ~~section, an institutional setting shall include an integrated~~
4 ~~health setting such as academic health centers and group~~
5 ~~practice settings where the pharmacist is an integral member of~~
6 ~~the interdisciplinary clinical team and has access to the~~
7 ~~patient's medical record.~~

8 * * *

9 ~~Section 2. The State Board of Pharmacy shall promulgate~~
10 ~~regulations to implement the amendment of section 9.1(a) of the~~
11 ~~act within 18 months of the effective date of this section.~~

12 ~~Section 3. This act shall take effect in 60 days.~~

13 SECTION 1. SECTION 2(11) AND (14) OF THE ACT OF SEPTEMBER <—
14 27, 1961 (P.L.1700, NO.699), KNOWN AS THE PHARMACY ACT, AMENDED
15 OR ADDED JUNE 29, 2002 (P.L.673, NO.102), ARE AMENDED AND THE
16 SECTION IS AMENDED BY ADDING PARAGRAPHS TO READ:

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

18 * * *

19 (10.1) "PHARMACY TECHNICIAN" MEANS AN INDIVIDUAL WHO IS
20 REGISTERED BY THE STATE BOARD OF PHARMACY UNDER SECTION 2.1 TO
21 ASSIST IN THE PRACTICE OF PHARMACY.

22 (10.2) "PHARMACY TECHNICIAN TRAINEE" MEANS AN INDIVIDUAL WHO
23 HOLDS A TEMPORARY PERMIT ISSUED BY THE STATE BOARD OF PHARMACY
24 UNDER SECTION 2.1.

25 (10.3) "DIRECT, IMMEDIATE AND PERSONAL SUPERVISION OF A
26 PHARMACIST" MEANS:

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

29 (II) VERIFICATION BY THE PHARMACIST OF THE FINAL PRODUCT;

30 AND

1 (III) THE PHARMACIST'S IMMEDIATE AVAILABILITY ON THE
2 PREMISES TO DIRECT THE WORK OF THE SUPERVISED INDIVIDUAL AND TO
3 RESPOND TO QUESTIONS OR PROBLEMS.

4 (11) "PRACTICE OF PHARMACY" MEANS THE PROVISION OF HEALTH
5 CARE SERVICES BY A PHARMACIST, WHICH INCLUDES THE
6 INTERPRETATION, EVALUATION AND IMPLEMENTATION OF MEDICAL ORDERS
7 FOR THE PROVISION OF PHARMACY SERVICES OR PRESCRIPTION DRUG
8 ORDERS; THE DELIVERY, DISPENSING OR DISTRIBUTION OF PRESCRIPTION
9 DRUGS; PARTICIPATION IN DRUG AND DEVICE SELECTION; DRUG
10 ADMINISTRATION; DRUG REGIMEN REVIEW; MEDICATION THERAPY
11 MANAGEMENT, INCLUDING SUCH SERVICES PROVIDED UNDER THE MEDICARE
12 PRESCRIPTION DRUG IMPROVEMENT AND MODERNIZATION ACT OF 2003;
13 DRUG OR DRUG-RELATED RESEARCH; COMPOUNDING; PROPER AND SAFE
14 STORAGE OF DRUGS AND DEVICES; MANAGING DRUG THERAPY [IN AN
15 INSTITUTIONAL SETTING CONSISTENT WITH THE INSTITUTION'S
16 ASSIGNMENT OF CLINICAL DUTIES] PURSUANT TO A WRITTEN AGREEMENT
17 OF PROTOCOL AS SET FORTH IN SECTION 9.1; MAINTAINING PROPER
18 RECORDS; PATIENT COUNSELING; AND SUCH ACTS, SERVICES, OPERATIONS
19 OR TRANSACTIONS NECESSARY OR INCIDENT TO THE PROVISION OF THESE
20 HEALTH CARE SERVICES. THE "PRACTICE OF PHARMACY" SHALL NOT
21 INCLUDE THE OPERATIONS OF A MANUFACTURER OR DISTRIBUTOR AS
22 DEFINED IN "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC
23 ACT."

24 * * *

25 (14) "MANAGING DRUG THERAPY" MEANS ANY OF THE FOLLOWING
26 PROCESSES WHICH SHALL BE PERFORMED [IN AN INSTITUTIONAL SETTING
27 ONLY] PURSUANT TO A WRITTEN AGREEMENT OR PROTOCOL AS SET FORTH
28 IN SECTION 9.1: ADJUSTING A DRUG REGIMEN; ADJUSTING DRUG
29 STRENGTH, FREQUENCY OF ADMINISTRATION OR ROUTE; ADMINISTRATION
30 OF DRUGS; AND ORDERING LABORATORY TESTS AND ORDERING AND

1 PERFORMING OTHER DIAGNOSTIC TESTS NECESSARY IN THE MANAGEMENT OF
2 DRUG [THERAPY, CONSISTENT WITH THE TESTING STANDARDS OF THE
3 INSTITUTION. MANAGING DRUG THERAPY SHALL BE PERFORMED PURSUANT
4 TO A WRITTEN AGREEMENT OR PROTOCOL AS SET FORTH IN SECTION 9.1
5 OF THIS ACT.] THERAPY. MANAGING DRUG THERAPY IN AN INSTITUTIONAL
6 SETTING SHALL BE PERFORMED CONSISTENT WITH THE INSTITUTION'S
7 ASSIGNMENT OF CLINICAL DUTIES AND ORDERING OF LABORATORY TESTS
8 AND ORDERING OR PERFORMING OTHER DIAGNOSTIC TESTS NECESSARY IN
9 THE MANAGEMENT OF DRUG THERAPY SHALL BE CONSISTENT WITH THE
10 TESTING STANDARDS OF THE INSTITUTION.

11 * * *

12 (15.1) "NON-INSTITUTIONAL SETTING" MEANS A LICENSED PHARMACY
13 OTHER THAN ONE LOCATED IN AN INSTITUTION THAT EMPLOYS ONE OR
14 MORE LICENSED PHARMACISTS THAT MAY CONTRACT THROUGH THAT
15 PHARMACY TO MANAGE DRUG THERAPY UNDER A WRITTEN AGREEMENT WITH A
16 PHYSICIAN.

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

18 SECTION 2.1. REGISTRATION AND PERMITS FOR PHARMACY
19 TECHNICIANS.--(A) THE BOARD MAY REGISTER AS A PHARMACY
20 TECHNICIAN ANY INDIVIDUAL WHO DOES THE FOLLOWING:

21 (1) PAYS AN APPLICATION FEE PRESCRIBED BY THE DEPARTMENT.

22 (2) FILES AN APPLICATION FOR LICENSURE, SUBSCRIBED BY THE
23 INDIVIDUAL UNDER OATH OR AFFIRMATION, CONTAINING INFORMATION THE
24 BOARD REQUIRES.

25 (3) EXCEPT AS SET FORTH IN SUBSECTION (B), COMPLIES WITH ALL
26 OF THE FOLLOWING:

27 (I) IS NOT LESS THAN EIGHTEEN YEARS OF AGE AND IS A CITIZEN
28 OF THE UNITED STATES.

29 (II) HAS A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT.

30 (III) HAS SATISFIED THE BOARD THAT THE APPLICANT IS OF GOOD

1 MORAL CHARACTER AND IS NOT UNFIT OR UNABLE TO PRACTICE AS A
2 PHARMACY TECHNICIAN BY REASON OF THE EXTENT OR MANNER OF HIS USE
3 OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES OR BY REASON OF
4 A PHYSICAL OR MENTAL DISABILITY.

5 (IV) HAS COMPLETED A PHARMACY TECHNICIAN TRAINING PROGRAM
6 APPROVED BY THE BOARD.

7 (V) HAS RECEIVED CERTIFICATION FROM A CERTIFYING AGENCY
8 APPROVED BY A NATIONALLY RECOGNIZED ACCREDITING AGENCY APPROVED
9 BY THE BOARD; OR HAS SUCCESSFULLY COMPLETED AN EXAMINATION
10 APPROVED BY THE BOARD.

11 (VI) EXAMINATIONS SHALL BE ADMINISTERED IN ACCORDANCE WITH
12 THE REQUIREMENTS SET FORTH IN SECTION 812.1(A) OF THE ACT OF
13 APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE ADMINISTRATIVE
14 CODE OF 1929."

15 (VII) HAS NOT BEEN CONVICTED OF A FELONIOUS ACT PROHIBITED
16 BY THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS "THE
17 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT," OR
18 CONVICTED OF A FELONY RELATING TO A CONTROLLED SUBSTANCE IN A
19 COURT OF LAW OF THE UNITED STATES OR ANY OTHER STATE, TERRITORY
20 OR COUNTRY UNLESS:

21 (A) AT LEAST TEN YEARS HAVE ELAPSED FROM THE DATE OF
22 CONVICTION; AND

23 (B) THE APPLICANT SATISFACTORILY DEMONSTRATES TO THE BOARD
24 THAT THE APPLICANT HAS MADE SIGNIFICANT PROGRESS IN PERSONAL
25 REHABILITATION SINCE THE CONVICTION SUCH THAT LICENSURE OF THE
26 APPLICANT SHOULD NOT BE EXPECTED TO CREATE A SUBSTANTIAL RISK OF
27 HARM TO THE HEALTH AND SAFETY OF PATIENTS OR THE PUBLIC OR A
28 SUBSTANTIAL RISK OF FURTHER CRIMINAL VIOLATIONS. AS USED IN THIS
29 CLAUSE, THE TERM "CONVICTED" SHALL INCLUDE A JUDGMENT, AN
30 ADMISSION OF GUILT OR A PLEA OF NOLO CONTENDERE. AN APPLICANT'S

1 STATEMENT ON THE APPLICATION DECLARING THE ABSENCE OF A
2 CONVICTION SHALL BE DEEMED SATISFACTORY EVIDENCE OF THE ABSENCE
3 OF A CONVICTION, UNLESS THE BOARD HAS SOME EVIDENCE TO THE
4 CONTRARY.

5 (B) THE FOLLOWING APPLY:

6 (1) NOTWITHSTANDING SUBSECTION (A)(3)(IV) AND (V), THE BOARD
7 SHALL REGISTER ALL OF THE FOLLOWING:

8 (I) AN INDIVIDUAL WHO, AT THE TIME OF FILING AN APPLICATION,
9 HAS PROOF OR REGISTRATION, CERTIFICATION OR LICENSURE OR ITS
10 EQUIVALENT AS A PHARMACY TECHNICIAN IN ANOTHER STATE, TERRITORY
11 OR POSSESSION OF THE UNITED STATES WHICH HAS REGISTRATION,
12 CERTIFICATION, LICENSURE OR EQUIVALENT REQUIREMENTS COMPARABLE
13 TO THOSE SET FORTH IN THIS SECTION AND REGULATIONS OF THE BOARD.

14 (II) AN INDIVIDUAL WHO:

15 (A) APPLIES FOR REGISTRATION WITHIN TWO YEARS AFTER THE
16 EFFECTIVE DATE OF THIS SECTION; AND

17 (B) ON THE EFFECTIVE DATE OF THIS SECTION MAINTAINS A
18 CURRENT CERTIFICATION BY A NATIONALLY RECOGNIZED PHARMACY
19 TECHNICIAN ASSOCIATION.

20 (2) NOTWITHSTANDING SUBSECTION (A)(3)(II), (IV) AND (V), THE
21 BOARD SHALL ISSUE A LICENSE TO AN INDIVIDUAL WHO:

22 (I) HAS BEEN EMPLOYED AS A PHARMACY TECHNICIAN FOR A MINIMUM
23 OF 2,000 HOURS DURING THE THREE YEARS IMMEDIATELY PRECEDING THE
24 ENACTMENT OF THIS ACT.

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

28 (C) A REGISTRATION SHALL AUTHORIZE THE REGISTRANT TO ASSIST
29 IN THE PRACTICE OF PHARMACY UNDER THE DIRECT, IMMEDIATE AND
30 PERSONAL SUPERVISION OF A PHARMACIST.

1 (D) A REGISTRATION IS SUBJECT TO BIENNIAL RENEWAL. THE BOARD
2 SHALL ESTABLISH A FEE FOR RENEWAL BY REGULATION.

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

4 (1) THE BOARD SHALL ISSUE A TEMPORARY PERMIT TO PRACTICE AS
5 A PHARMACY TECHNICIAN TRAINEE TO AN APPLICANT WHO IS SEVENTEEN
6 YEARS OF AGE OR OLDER AND MEETS THE REQUIREMENTS OF SUBSECTION
7 (A)(3)(II) AND (VI) AND COMPLIES WITH THE FOLLOWING:

8 (I) THE INDIVIDUAL IS A STUDENT ENROLLED IN A BOARD-APPROVED
9 PHARMACY TECHNICIAN TRAINING PROGRAM AND AS PART OF THE PROGRAM
10 MAY BE REQUIRED TO SERVE AN EXTERNSHIP OR INTERNSHIP; OR

11 (II) THE INDIVIDUAL IS EMPLOYED BY A PHARMACY AND
12 PARTICIPATES IN A BOARD-APPROVED PHARMACY TECHNICIAN TRAINING
13 PROGRAM WHICH MAY INCLUDE AN EXTERNSHIP OR INTERNSHIP PROGRAM.

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

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

19 (4) A TEMPORARY PERMIT SHALL AUTHORIZE THE PERMITTEE TO
20 PERFORM THE DUTIES OF A PHARMACY TECHNICIAN UNDER THE DIRECT,
21 IMMEDIATE AND PERSONAL SUPERVISION OF A PHARMACIST.

22 (F) IDENTIFICATION REQUIREMENTS ARE AS FOLLOWS:

23 (1) A PHARMACY TECHNICIAN SHALL WEAR A NAME TAG THAT CLEARLY
24 IDENTIFIES THE PHARMACY TECHNICIAN WITH THE TITLE "LICENSED
25 PHARMACY TECHNICIAN."

26 (2) A HOLDER OF A TEMPORARY PERMIT SHALL WEAR A NAME TAG
27 THAT CLEARLY IDENTIFIES THE TEMPORARY PERMIT HOLDER WITH THE
28 TITLE "PHARMACY TECHNICIAN TRAINEE."

29 (G) THIS SECTION SHALL NOT APPLY TO ANY STUDENT WHO IS
30 ENROLLED IN AN ACCREDITED SCHOOL OF PHARMACY AND WHO IS IN GOOD

1 STANDING.

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

4 SECTION 3.2. REPORTING OF MULTIPLE LICENSURE.--ANY
5 [LICENSED] PHARMACIST OR PHARMACY TECHNICIAN OF THIS
6 COMMONWEALTH WHO IS ALSO REGISTERED, CERTIFIED OR LICENSED [TO
7 PRACTICE PHARMACY] IN ANY OTHER STATE, TERRITORY OR COUNTRY
8 SHALL REPORT THIS INFORMATION TO THE BOARD ON THE BIENNIAL
9 REGISTRATION APPLICATION. ANY DISCIPLINARY ACTION TAKEN IN OTHER
10 STATES, TERRITORIES AND COUNTRIES SHALL BE REPORTED TO THE BOARD
11 ON THE BIENNIAL REGISTRATION APPLICATION OR WITHIN NINETY DAYS
12 OF FINAL DISPOSITION, WHICHEVER IS SOONER. MULTIPLE [LICENSURE]
13 REGISTRATION CERTIFICATION OR LICENSURE SHALL BE NOTED BY THE
14 BOARD ON THE [PHARMACIST'S] REGISTRANT'S RECORD, AND SUCH STATE,
15 TERRITORY OR COUNTRY SHALL BE NOTIFIED BY THE BOARD OF ANY
16 DISCIPLINARY ACTIONS TAKEN AGAINST [SAID PHARMACIST] THAT
17 LICENSEE IN THIS COMMONWEALTH.

18 SECTION 4. SECTION 5(A)(9) AND (C) OF THE ACT, AMENDED
19 DECEMBER 20, 1985 (P.L.433, NO.111), ARE AMENDED AND THE SECTION
20 IS AMENDED BY ADDING A SUBSECTION TO READ:

21 SECTION 5. REFUSAL TO GRANT, REVOCATION AND SUSPENSION.--(A)
22 THE BOARD SHALL HAVE THE POWER TO REFUSE, REVOKE OR SUSPEND THE
23 LICENSE OF ANY PHARMACIST UPON PROOF SATISFACTORY TO IT THAT THE
24 PHARMACIST:

25 * * *

26 (9) IS GUILTY OF GROSSLY UNPROFESSIONAL CONDUCT. THE
27 FOLLOWING ACTS ON THE PART OF A PHARMACIST ARE HEREBY DECLARED
28 TO CONSTITUTE GROSSLY UNPROFESSIONAL CONDUCT OF A PHARMACIST:

29 (I) WILLFULLY DECEIVING OR ATTEMPTING TO DECEIVE THE STATE
30 BOARD OF PHARMACY OR ITS AGENTS WITH RESPECT TO ANY MATERIAL

1 MATTER UNDER INVESTIGATION BY THE BOARD;

2 (II) ADVERTISING OF PRICES FOR DRUGS AND PHARMACEUTICAL
3 SERVICES TO THE PUBLIC WHICH DOES NOT CONFORM TO FEDERAL LAWS OR
4 REGULATIONS;

5 (III) THE PUBLIC ASSERTION OR IMPLICATION OF PROFESSIONAL
6 SUPERIORITY IN THE PRACTICE OF PHARMACY;

7 (IV) THE ENGAGING BY ANY MEANS IN UNTRUE, FALSE, MISLEADING
8 OR DECEPTIVE ADVERTISING OF DRUGS OR DEVICES;

9 (V) PAYING REBATES TO PHYSICIANS OR ANY OTHER PERSONS, OR
10 THE ENTERING INTO ANY AGREEMENT WITH A MEDICAL PRACTITIONER OR
11 ANY OTHER PERSON FOR THE PAYMENT OR ACCEPTANCE OF COMPENSATION
12 IN ANY FORM FOR THE RECOMMENDING OF THE PROFESSIONAL SERVICES OF
13 EITHER PARTY;

14 (VI) THE ENTERING INTO OF ANY AGREEMENT WITH A LICENSED
15 MEDICAL PRACTITIONER FOR THE COMPOUNDING OR DISPENSING OF SECRET
16 FORMULA (CODED), PRESCRIPTIONS;

17 (VII) THE MISBRANDING OR ADULTERATION OF ANY DRUG OR DEVICE
18 AND THE SALE, DISTRIBUTION OR DISPENSING OF ANY MISBRANDED OR
19 ADULTERATED DRUG OR DEVICE AS DEFINED IN THE ACT OF APRIL 14,
20 1972 (P.L.233, NO.64), KNOWN AS "THE CONTROLLED SUBSTANCE, DRUG,
21 DEVICE AND COSMETIC ACT";

22 (VIII) ENGAGING IN THE SALE OR PURCHASE OF DRUGS OR DEVICES
23 WHOSE PACKAGE BEARS THE INSCRIPTION "SAMPLE" OR "NOT FOR
24 RESALE;"

25 (IX) DISPLAYING OR PERMITTING THE DISPLAY OF HIS CERTIFICATE
26 OF LICENSURE AND BIENNIAL REGISTRATION DOCUMENT IN A PHARMACY OF
27 WHICH HE IS NOT THE PROPRIETOR OR IN WHICH HE IS NOT EMPLOYED;

28 (X) ANY HOLDER OF A BIENNIAL POCKET REGISTRATION CARD WHO
29 FAILS TO HAVE THE CARD AVAILABLE FOR INSPECTION BY AN AUTHORIZED
30 AGENT WHEN HE IS PRACTICING;

1 (XI) THE ACCEPTANCE BACK AND REDISTRIBUTION OF ANY UNUSED
2 DRUG, OR A PART THEREOF, AFTER IT HAS LEFT THE PREMISES OF ANY
3 PHARMACY, WHETHER ISSUED BY MISTAKE OR OTHERWISE, UNLESS IT IS
4 IN THE ORIGINAL SEALED CONTAINER WITH THE NAME, LOT NUMBER AND
5 EXPIRATION DATE ON THE ORIGINAL INTACT MANUFACTURER'S LABEL. THE
6 PHARMACY SHALL MAINTAIN RECORDS OF ALL SUCH RETURNS, AND A FULL
7 REFUND SHALL BE GIVEN TO THE ORIGINAL PURCHASER, INCLUDING A
8 THIRD-PARTY PAYOR;

9 [(XII) TO ACCEPT EMPLOYMENT AS A PHARMACIST, OR SHARE OR
10 RECEIVE COMPENSATION IN ANY FORM ARISING OUT OF, OR INCIDENTAL
11 TO, HIS PROFESSIONAL ACTIVITIES FROM ANY MEDICAL PRACTITIONER OR
12 ANY OTHER PERSON OR CORPORATION IN WHICH ONE OR MORE MEDICAL
13 PRACTITIONERS HAVE A PROPRIETARY OR BENEFICIAL INTEREST
14 SUFFICIENT TO PERMIT THEM TO EXERCISE SUPERVISION OR CONTROL
15 OVER THE PHARMACIST IN HIS PROFESSIONAL RESPONSIBILITIES AND
16 DUTIES;

17 (XIII) TO ACCEPT EMPLOYMENT AS A PHARMACIST, OR SHARE OR
18 RECEIVE COMPENSATION IN ANY FORM ARISING OUT OF, OR INCIDENTAL
19 TO, HIS PROFESSIONAL ACTIVITIES FROM ANY PERSON WHO ORDERS SAID
20 PHARMACIST, DIRECTLY OR INDIRECTLY, TO ENGAGE IN ANY ASPECT OF
21 THE PRACTICE OF PHARMACY IN CONTRAVENTION OF ANY PROVISION OF
22 THIS ACT.]

23 (XII) TO ACCEPT EMPLOYMENT AS A PHARMACIST FROM ANY HEALTH
24 CARE PRACTITIONER, OTHER PERSON OR ENTITY, WHEREBY THE
25 PHARMACIST ENGAGES IN ANY ASPECT OF THE PRACTICE OF PHARMACY IN
26 CONTRAVENTION OF ANY PROVISION OF THIS ACT OR FEDERAL LAW.

27 (XIII) TO SHARE OR RECEIVE COMPENSATION IN ANY FORM ARISING
28 OUT OF, OR INCIDENTAL TO, HIS PROFESSIONAL ACTIVITIES WHEREBY
29 THE PHARMACIST ENGAGED IN ANY ASPECT OF THE PRACTICE OF PHARMACY
30 IN CONTRAVENTION OF ANY PROVISION OF THIS ACT OR FEDERAL LAW.

1 (XIV) IT SHALL BE UNLAWFUL FOR A PHARMACIST OR PHARMACY
2 PERMIT HOLDER TO ENTER INTO AN ARRANGEMENT WITH A HEALTH CARE
3 PRACTITIONER WHO IS LICENSED TO ISSUE PRESCRIPTIONS FOR THE
4 PURPOSE OF DIRECTING OR DIVERTING PATIENTS TO OR FROM A
5 SPECIFIED PHARMACY OR RESTRAINING IN ANY WAY A PATIENT'S FREEDOM
6 OF CHOICE TO SELECT A PHARMACY.

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

11 (1) PROCURED A PERSON REGISTRATION THROUGH FRAUD,
12 MISREPRESENTATION OR DECEIT.

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

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

25 (4) IS UNFIT OR UNABLE TO PRACTICE AS A PHARMACY TECHNICIAN
26 BY REASON OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY. IN
27 ENFORCING THIS CLAUSE, THE BOARD SHALL, UPON PROBABLE CAUSE,
28 HAVE AUTHORITY TO COMPEL A PHARMACY TECHNICIAN TO SUBMIT TO A
29 MENTAL OR PHYSICAL EXAMINATION BY PHYSICIANS OR PSYCHOLOGISTS
30 APPROVED BY THE BOARD. FAILURE OF A PHARMACY TECHNICIAN TO

1 SUBMIT TO EXAMINATION WHEN DIRECTED BY THE BOARD, UNLESS DUE TO
2 CIRCUMSTANCES BEYOND THE PHARMACY TECHNICIAN'S CONTROL, SHALL
3 CONSTITUTE AN ADMISSION OF THE ALLEGATIONS AGAINST THE PHARMACY
4 TECHNICIAN, CONSEQUENT UPON WHICH A DEFAULT AND FINAL ORDER MAY
5 BE ENTERED WITHOUT THE TAKING OF TESTIMONY OR PRESENTATION OF
6 EVIDENCE. A PHARMACY TECHNICIAN AFFECTED UNDER THIS CLAUSE SHALL
7 AT REASONABLE INTERVALS BE AFFORDED AN OPPORTUNITY TO
8 DEMONSTRATE THAT ABILITY TO RESUME A COMPETENT PRACTICE AS A
9 PHARMACY TECHNICIAN WITH REASONABLE SKILL AND SAFETY TO
10 PATIENTS.

11 (5) HAS HAD A REGISTRATION, CERTIFICATION OR LICENSE TO
12 PRACTICE AS A PHARMACY TECHNICIAN DENIED, REVOKED OR SUSPENDED
13 BY AN APPROPRIATE PHARMACY TECHNICIAN REGISTRATION,
14 CERTIFICATION OR LICENSING AUTHORITY OR HAS RECEIVED
15 DISCIPLINARY ACTION FROM AN APPROPRIATE PHARMACY TECHNICIAN
16 REGISTRATION, CERTIFICATION OR LICENSING AUTHORITY.

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

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

23 * * *

24 (C) WHEN THE BOARD FINDS THAT THE REGISTRATION,
25 CERTIFICATION OR LICENSE [OF ANY PHARMACIST] MAY BE REFUSED,
26 REVOKED OR SUSPENDED UNDER THE TERMS OF SUBSECTION (A) OR (A.1),
27 THE BOARD MAY:

28 (1) DENY THE APPLICATION FOR A REGISTRATION, CERTIFICATION
29 OR LICENSE.

30 (2) ADMINISTER A PUBLIC REPRIMAND.

1 (3) REVOKE, SUSPEND, LIMIT OR OTHERWISE RESTRICT A
2 REGISTRATION, CERTIFICATION OR LICENSE AS DETERMINED BY THE
3 BOARD.

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

7 (5) SUSPEND ENFORCEMENT OF ITS FINDING THEREOF AND PLACE A
8 LICENSEE ON PROBATION WITH THE RIGHT TO VACATE THE PROBATIONARY
9 ORDER FOR NONCOMPLIANCE.

10 (6) RESTORE OR REISSUE, IN ITS DISCRETION, A SUSPENDED
11 LICENSE [TO PRACTICE PHARMACY] OR REGISTRATION AND IMPOSE ANY
12 DISCIPLINARY OR CORRECTIVE MEASURE WHICH IT MIGHT ORIGINALLY
13 HAVE IMPOSED.

14 * * *

15 SECTION 5. SECTION 6(K) OF THE ACT, AMENDED DECEMBER 20,
16 1985 (P.L.433, NO.111), IS AMENDED TO READ:

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

18 (K) THE BOARD SHALL HAVE THE POWER, AND IT SHALL BE ITS
19 DUTY:

20 (1) TO REGULATE THE PRACTICE OF PHARMACY AND OF PHARMACY
21 TECHNICIANS;

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

24 (3) TO EXAMINE, INSPECT AND INVESTIGATE ALL APPLICATIONS AND
25 ALL APPLICANTS FOR LICENSURE AS PHARMACISTS, PHARMACIES OR
26 REGISTRATION AS PHARMACY INTERNS AND PHARMACY TECHNICIANS, AND
27 TO GRANT CERTIFICATES OF LICENSURE OR REGISTRATION TO ALL
28 APPLICANTS WHOM IT SHALL JUDGE TO BE PROPERLY QUALIFIED;

29 (4) WITH THE APPROVAL OF THE COMMISSIONER OF PROFESSIONAL
30 AND OCCUPATIONAL AFFAIRS, TO PREPARE POSITION DESCRIPTIONS,

1 EMPLOY INSPECTORS WHO SHALL BE LICENSED PHARMACISTS AND EMPLOY
2 APPROPRIATE CONSULTANTS TO ASSIST IT FOR ANY PURPOSES WHICH IT
3 MAY DEEM NECESSARY, PROVIDED THAT THE BOARD MAY NOT DELEGATE ANY
4 OF ITS FINAL DECISIONMAKING RESPONSIBILITIES TO ANY CONSULTANT;

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

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

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

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

4 (8.1) TO APPROVE PROGRAMS FOR THE TRAINING OF PHARMACY
5 TECHNICIANS.

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

10 * * *

11 SECTION 6. SECTION 7 OF THE ACT IS AMENDED BY ADDING A
12 SUBSECTION TO READ:

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

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

17 SECTION 7. SECTIONS 7.1, 8(2) AND (8) AND 8.1 OF THE ACT,
18 AMENDED OR ADDED DECEMBER 20, 1985 (P.L.433, NO.111), ARE
19 AMENDED TO READ:

20 SECTION 7.1. REINSTATEMENT OF LICENSE, CERTIFICATE OR
21 REGISTRATION.--UNLESS ORDERED TO DO SO BY COMMONWEALTH COURT OR
22 AN APPEAL THEREFROM, THE BOARD SHALL NOT REINSTATE THE LICENSE,
23 CERTIFICATE OR REGISTRATION OF A PERSON TO PRACTICE [PHARMACY]
24 PURSUANT TO THIS ACT WHICH HAS BEEN REVOKED. ANY PERSON WHOSE
25 LICENSE, CERTIFICATE OR REGISTRATION HAS BEEN REVOKED MAY APPLY
26 FOR REINSTATEMENT, AFTER A PERIOD OF AT LEAST FIVE YEARS, BUT
27 MUST MEET ALL OF THE LICENSING QUALIFICATIONS OF THIS ACT FOR
28 THE LICENSE APPLIED FOR, TO INCLUDE THE EXAMINATION REQUIREMENT,
29 IF HE OR SHE DESIRES TO PRACTICE AT ANY TIME AFTER SUCH
30 REVOCATION.

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

2 * * *

3 (2) ANY PERSON NOT DULY LICENSED AS A PHARMACIST, PURSUANT
4 TO SECTION 3 HEREOF, TO ENGAGE IN THE PRACTICE OF PHARMACY,
5 INCLUDING THE PREPARING, COMPOUNDING, DISPENSING, SELLING OR
6 DISTRIBUTING AT RETAIL TO ANY PERSON ANY DRUG, EXCEPT BY A
7 PHARMACY INTERN, PHARMACY TECHNICIAN OR SUCH OTHER AUTHORIZED
8 PERSONNEL UNDER THE DIRECT AND IMMEDIATE PERSONAL SUPERVISION OF
9 A PHARMACIST: PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL BE
10 CONSTRUED TO PREVENT A DULY LICENSED MEDICAL PRACTITIONER FROM
11 DISPENSING, COMPOUNDING OR OTHERWISE GIVING ANY DRUG TO HIS OWN
12 PATIENTS AFTER DIAGNOSIS OR TREATMENT OF SAID PATIENT, IF SUCH
13 COMPOUNDING, PREPARING AND DISPENSING IS DONE BY SAID LICENSEE
14 HIMSELF, NOR SHALL ANYTHING HEREIN PREVENT ANY PERSON FROM
15 SELLING OR DISTRIBUTING AT RETAIL HOUSEHOLD REMEDIES OR
16 PROPRIETARY MEDICINES WHEN THE SAME ARE OFFERED FOR SALE OR SOLD
17 IN THE ORIGINAL PACKAGES WHICH HAVE BEEN PUT UP READY FOR SALE
18 TO CONSUMERS, PROVIDED HOUSEHOLD REMEDIES OR PROPRIETARY
19 MEDICINES SHALL NOT INCLUDE ANY CONTROLLED SUBSTANCES OR NON-
20 PROPRIETARY DRUG UNDER THE ACT OF APRIL 14, 1972 (P.L.233,
21 NO.64), KNOWN AS "THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
22 COSMETIC ACT."

23 * * *

24 (8) ANY PERSON, FIRM OR CORPORATION TO USE THE TITLE
25 "PHARMACIST", "ASSISTANT PHARMACIST", "PHARMACY TECHNICIAN,"
26 "PHARMACY TECHNICIAN TRAINEE," "DRUGGIST"[,] OR "APOTHECARY",
27 EXCEPT A PERSON DULY LICENSED AS A PHARMACIST OR REGISTERED AS A
28 PHARMACY TECHNICIAN IN PENNSYLVANIA, OR ANY PERSON TO CONDUCT OR
29 TRANSACT BUSINESS UNDER A NAME WHICH CONTAINS AS PART THEREOF
30 THE WORDS "DRUG STORE", "PHARMACY", "DRUGS", "MEDICINE STORE",

1 "MEDICINES", "DRUG SHOP," "APOTHECARY," "PHARMACEUTICAL,"
2 "HOMEOPATHIC," "HOMEOPATHY" OR ANY TERM HAVING A SIMILAR
3 MEANING, OR IN ANY MANNER BY ADVERTISEMENT, DISPLAY OF SHOW
4 GLOBES OR OTHERWISE DESCRIBE OR REFER TO THE PLACE OF THE
5 CONDUCTED BUSINESS OR PERSON, UNLESS THE PLACE IS A PHARMACY
6 DULY ISSUED A PERMIT BY THE STATE BOARD OF PHARMACY.

7 * * *

8 SECTION 8.1. INJUNCTION.--IT SHALL BE UNLAWFUL FOR ANY
9 PERSON TO PRACTICE OR ATTEMPT TO OFFER TO PRACTICE PHARMACY OR
10 AS A PHARMACY TECHNICIAN, AS DEFINED IN THIS ACT, WITHOUT HAVING
11 AT THE TIME OF SO DOING A VALID, UNEXPIRED, UNREVOKED AND
12 UNSUSPENDED LICENSE OR REGISTRATION ISSUED UNDER THIS ACT. THE
13 UNLAWFUL PRACTICE OF PHARMACY AS DEFINED IN THIS ACT MAY BE
14 ENJOINED BY THE COURTS ON PETITION OF THE BOARD OR THE
15 COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS. IN ANY
16 SUCH PROCEEDING IT SHALL NOT BE NECESSARY TO SHOW THAT ANY
17 PERSON IS INDIVIDUALLY INJURED BY THE ACTIONS COMPLAINED OF. IF
18 IT IS FOUND THAT THE RESPONDENT HAS ENGAGED IN THE UNLAWFUL
19 PRACTICE OF PHARMACY, THE COURT SHALL ENJOIN HIM OR HER FROM SO
20 PRACTICING UNLESS AND UNTIL HE OR SHE HAS BEEN DULY LICENSED.
21 PROCEDURE IN SUCH CASES SHALL BE THE SAME AS IN ANY OTHER
22 INJUNCTION SUIT. THE REMEDY BY INJUNCTION HEREBY GIVEN IS IN
23 ADDITION TO ANY OTHER CIVIL OR CRIMINAL PROSECUTION AND
24 PUNISHMENT.

25 SECTION 8. SECTION 9.1(A) OF THE ACT, ADDED JUNE 29, 2002
26 (P.L.673, NO.102), IS AMENDED TO READ:

27 SECTION 9.1. DRUG THERAPY PROTOCOLS.--(A) A [PHARMACIST]
28 LICENSED PHARMACIST, INDIVIDUALLY, OR IN AN INSTITUTIONAL OR
29 NON-INSTITUTIONAL SETTING SHALL BE PERMITTED TO ENTER INTO A
30 WRITTEN AGREEMENT OR PROTOCOL WITH A LICENSED PHYSICIAN

1 AUTHORIZING THE MANAGEMENT OF DRUG THERAPY IN AN INSTITUTIONAL
2 SETTING.

3 * * *

4 SECTION 9. NO INDIVIDUAL IS REQUIRED TO BE REGISTERED AS A
5 PHARMACY TECHNICIAN UNDER SECTION 2.1 OF THE ACT UNTIL TWO YEARS
6 AFTER THE STATE BOARD OF PHARMACY HAS PROMULGATED REGULATIONS
7 UNDER SECTION 6 OF THIS ACT.

8 SECTION 10. THE STATE BOARD OF PHARMACY SHALL PROMULGATE
9 REGULATIONS TO IMPLEMENT THE AMENDMENT OF SECTION 2.1 AND 9.1(A)
10 OF THE ACT WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS
11 SECTION.

12 SECTION 11. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.