

CF 7r1759

By: Senator Hollinger

Introduced and read first time: January 31, 1997

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Pharmacy - Disciplinary and Regulatory Authority**

3 FOR the purpose of altering certain disciplinary and regulatory authority of the State
4 Board of Pharmacy; authorizing the Board to adopt a certain code of conduct for
5 licensees; requiring the Board to disclose certain information to certain
6 governmental units under certain circumstances; authorizing the Board to initiate
7 programs and projects necessary to inform or protect the public; altering the
8 grounds on which the Board may take disciplinary action against certain licensees
9 and applicants; authorizing the Board under certain circumstances to assess a
10 certain monetary penalty instead of or in addition to taking certain other action;
11 prohibiting a stay or challenge to the hearing of charges on the basis of a certain
12 procedural defect; providing for the legal discovery and admissibility of certain
13 proceedings, records, files, orders, medical or hospital records, and other exhibits;
14 prohibiting the stay of an order of the Board pending administrative or judicial
15 review; establishing a Pharmacy Review Committee to advise the Board concerning
16 certain matters; providing for the legal discovery and admissibility of the
17 proceedings, records, and files of the Pharmacy Review Committee and for certain
18 civil immunity of a member of the Committee; authorizing certain injunctive action
19 in the name of the State or the Board; specifying the nature of proof required for
20 the injunctive action and the relationship of that action to certain other types of
21 actions; authorizing the Board under certain circumstances and at its expense to
22 require a pharmacy licensee to submit to an examination by a health care provider
23 designated by the Board; providing for a certain consent to and waiver by a
24 pharmacy licensee to a certain examination and for the evidentiary weight to be
25 accorded a failure or refusal of the licensee to submit to a certain examination;
26 authorizing the Board to take certain disciplinary action against a nonresident
27 pharmacy under certain circumstances and to accept a certain final disposition of a
28 nonresident regulatory unit under certain circumstances; clarifying certain
29 inspection authority of the Board; altering the amount of certain penalties and
30 adding new penalties for certain violations of the State Pharmacy Act; defining
31 terms; making certain provisions of this Act contingent on the taking effect of
32 another Act; and generally relating to the State Board of Pharmacy.

33 BY repealing and reenacting, with amendments,

34 Article - Health Occupations

35 Section 12-205, 12-313 through 12-317, 12-409, 12-410, 12-604, and 12-707

2

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1996 Supplement)

3 BY adding to

4 Article - Health Occupations
5 Section 12-318 through 12-320
6 Annotated Code of Maryland
7 (1994 Replacement Volume and 1996 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - Health Occupations**

11 12-205.

12 (a) In addition to the powers set forth elsewhere in this title, the Board may
13 adopt:

14 (1) Rules and bylaws that are necessary to do its business;

15 (2) Rules and regulations to carry out the provisions of this title; [and]

16 (3) Rules and regulations that are necessary to protect the public health,
17 safety, and welfare and that establish standards for practicing pharmacy and operating
18 pharmacies, including rules and regulations that govern:

19 (i) Methods of advertising and promotion; and

20 (ii) Standards for filling and refilling prescriptions[.]; AND

21 (4) A CODE OF CONDUCT THAT SPECIFIES WHICH BEHAVIORS ARE
22 EITHER REQUIRED OR PROHIBITED IN THE PRACTICE OF PHARMACY.

23 (b) In addition to the duties set forth elsewhere in this title, the Board shall:

24 (1) Keep a record that includes:

25 (i) The name and place of the business or the home address of each
26 licensed pharmacist; and

27 (ii) The facts concerning the issuance of that pharmacist's license; and

28 (2) Prepare and deliver to the Governor, the Secretary, and the Maryland
29 [Pharmaceutical] PHARMACISTS Association an annual report that:

30 (i) Summarizes the condition of pharmacy in this State; AND

31 (ii) Includes a record of the proceedings of the Board; and

32 [(iii) Lists each pharmacist who currently is licensed.]

33 (3) DISCLOSE ANY INFORMATION CONTAINED IN A RECORD TO ANY
34 HEALTH OCCUPATIONS REGULATORY BOARD OR AGENCY OF THIS STATE OR

3

1 ANOTHER STATE IF THE HEALTH OCCUPATIONS REGULATORY BOARD OR AGENCY
2 OF THIS STATE OR ANOTHER STATE REQUESTS THE INFORMATION IN WRITING.

3 (C) IN ADDITION TO THE DUTIES SET FORTH ELSEWHERE IN THIS TITLE, THE
4 BOARD MAY INITIATE SUCH PROGRAMS AND PROJECTS AS DEEMED NECESSARY TO
5 INFORM OR PROTECT THE PUBLIC.

6 12-313.

7 (a) In this section, "convicted" includes a determination of guilt, a guilty plea, or
8 a plea of nolo contendere followed by a sentence.

9 (b) Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on the
10 affirmative vote of a majority of its members then serving, may deny a license to any
11 applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke
12 a license if the applicant or licensee:

13 (1) Fraudulently or deceptively obtains or attempts to obtain a license for
14 the applicant or licensee or for another;

15 (2) Fraudulently or deceptively uses a license;

16 (3) Aids an unauthorized individual to practice pharmacy or to represent
17 that the individual is a pharmacist;

18 (4) Provides professional services while:

19 (i) Under the influence of alcohol; or

20 (ii) Using any narcotic or controlled dangerous substance, as defined
21 in Article 27 of the Code, or other drug that is in excess of therapeutic amounts or
22 without valid medical indication;

23 (5) Submits a false statement to collect a fee;

24 (6) Willfully makes or files a false report or record as part of practicing
25 pharmacy;

26 (7) Willfully fails to file or record any report that is required by law;

27 (8) Willfully impedes or obstructs the filing or recording of any report that is
28 required by law;

29 (9) Willfully induces another to fail to file or record any report that is
30 required by law;

31 (10) Provides or causes to be provided to any authorized prescriber
32 prescription forms that bear the name, address, or other means of identification of a
33 pharmacist or pharmacy;

34 (11) [Splits or agrees to split fees for professional services with an authorized
35 prescriber] PROVIDES REMUNERATION TO AN AUTHORIZED PRESCRIBER FOR
36 REFERRING AN INDIVIDUAL TO A PHARMACIST OR PHARMACY FOR A PRODUCT OR
37 SERVICE TO BE PROVIDED BY THAT PHARMACIST OR PHARMACY;

1 (12) Agrees with an authorized prescriber to prepare or dispense a secret
2 formula prescription;

3 (13) Except as to an association that has remained in continuous existence
4 since July 1, 1963, associates as a partner, coowner, or employee of a pharmacy that is
5 owned wholly or substantially by an authorized prescriber or group of authorized
6 prescribers;

7 (14) [Without first having received a written or oral prescription for the drug
8 from an authorized prescriber, dispenses] DISPENSES any drug, DEVICE, OR
9 DIAGNOSTIC for which a prescription is required WITHOUT A WRITTEN, ORAL, OR
10 ELECTRONICALLY TRANSMITTED PRESCRIPTION FROM AN AUTHORIZED
11 PRESCRIBER;

12 (15) Except as provided in [§ 12-511] § 12-506 of this title, unless an
13 authorized prescriber authorizes the refill [in the original prescription or by oral order],
14 refills a prescription for any drug, DEVICE, OR DIAGNOSTIC for which a prescription is
15 required;

16 (16) Violates any provision of [§ 12-509] § 12-505 of this title, which
17 concerns the labeling requirements for [prescription] PRESCRIPTIONS [medicines]
18 FOR DRUGS, DEVICES, OR DIAGNOSTICS;

19 (17) Violates any provision of § 12-603 of this title, which concerns the home
20 [hemodialysis] DIALYSIS distribution program;

21 (18) Advertises or otherwise publicly claims to [prepare or fill] DISPENSE
22 prescriptions OR PRACTICE PHARMACY in a superior manner;

23 (19) Advertises in a manner that tends to deceive or defraud the public;

24 (20) Is professionally, physically, or mentally incompetent;

25 (21) Is convicted of or pleads guilty or nolo contendere to a felony or to a
26 crime involving moral turpitude, whether or not any appeal or other proceeding is
27 pending to have the conviction or plea set aside;

28 (22) Is convicted of a violation of this title;

29 (23) Is disciplined by a licensing or disciplinary authority of any [other] state
30 or country or convicted or disciplined by a court of any state or country for an act that
31 would be grounds for disciplinary action under the Board's disciplinary statutes;

32 (24) Violates any rule or regulation adopted by the Board;

33 (25) Refuses, withholds from, denies, or discriminates against an individual
34 with regard to the provision of professional services for which the licensee is licensed and
35 qualified to render because the individual is HIV positive; [or]

36 (26) Violates any provision of [§ 12-512] § 12-507 of this title[.];

37 (27) PROVIDES OR CAUSES TO BE PROVIDED CONFIDENTIAL PATIENT
38 INFORMATION TO ANY PERSON WITHOUT FIRST HAVING OBTAINED THE PATIENT'S

5
1 CONSENT, AS REQUIRED BY § 12-403(B)(13) OF THIS TITLE AND BY TITLE 4, SUBTITLE
2 3 OF THE HEALTH - GENERAL ARTICLE; OR

3 (28) FAILS TO COOPERATE WITH A LAWFUL INVESTIGATION
4 CONDUCTED BY THE BOARD OR THE DIVISION OF DRUG CONTROL.

5 12-314.

6 (a) If after a hearing under § 12-315 of this subtitle the Board finds that there are
7 grounds under § 12-313 of this subtitle to REPRIMAND ANY LICENSEE, PLACE ANY
8 LICENSEE ON PROBATION, OR suspend or revoke a license, the Board may impose a
9 penalty not exceeding [\$5,000] \$50,000:

10 (1) Instead of REPRIMANDING THE LICENSEE, PLACING THE LICENSEE
11 ON PROBATION, OR suspending OR REVOKING the license; or

12 (2) In addition to REPRIMANDING THE LICENSEE, PLACING THE
13 LICENSEE ON PROBATION, OR suspending or revoking the license.

14 (b) The Board shall adopt rules and regulations to set standards for the
15 imposition of penalties under this section.

16 (c) The Board shall pay any penalty collected under this section into the General
17 Fund of this State.

18 12-315.

19 (a) Except as otherwise provided in the Administrative Procedure Act, before the
20 Board takes any action under § 12-313 of this subtitle, it shall give the individual against
21 whom the action is contemplated an opportunity for a hearing before the Board.

22 (b) The Board shall give notice and hold the hearing in accordance with the
23 Administrative Procedure Act.

24 (c) The hearing notice to be given to the individual shall be sent by certified mail,
25 return receipt requested, bearing a postmark from the United States Postal Service, to the
26 last known address of the individual at least 20 days before the hearing.

27 (d) The individual may be represented at the hearing by counsel.

28 (e) Over the signature of an officer or the executive director of the Board, the
29 Board may issue subpoenas and administer oaths in connection with any investigation
30 under this title and any hearings or proceedings before it.

31 (f) If, without lawful excuse, a person disobeys a subpoena from the Board or an
32 order by the Board to take an oath or to testify or answer a question, then, on petition of
33 the Board, a court of competent jurisdiction may punish the person as for contempt of
34 court.

35 (g) If after due notice the individual against whom the action is contemplated fails
36 or refuses to appear, nevertheless the Board may hear and determine the matter.

6

1 (H) THE HEARING OF CHARGES AGAINST A PERSON MAY NOT BE STAYED OR
2 CHALLENGED BY PROCEDURAL DEFECTS ALLEGED TO HAVE OCCURRED PRIOR TO
3 FILING OF THE CHARGES.

4 (I) (1) THIS SUBSECTION DOES NOT APPLY TO A CIVIL ACTION BROUGHT
5 BY A PARTY TO A PROCEEDING BEFORE THE BOARD WHO CLAIMS TO BE
6 AGGRIEVED BY THE DECISION OF THE BOARD.

7 (2) EXCEPT BY THE EXPRESS STIPULATION AND CONSENT OF ALL
8 PARTIES TO A PROCEEDING BEFORE THE BOARD OR ANY OF ITS INVESTIGATORY
9 BODIES, IN A CIVIL OR CRIMINAL ACTION:

10 (I) THE PROCEEDINGS, RECORDS, OR FILES OF THE BOARD OR
11 ANY OF ITS INVESTIGATORY BODIES ARE NOT DISCOVERABLE AND ARE NOT
12 ADMISSIBLE IN EVIDENCE; AND

13 (II) ANY ORDER PASSED BY THE BOARD IS NOT ADMISSIBLE IN
14 EVIDENCE.

15 (3) IF ANY MEDICAL OR HOSPITAL RECORD OR ANY OTHER EXHIBIT IS
16 SUBPOENAED AND OTHERWISE IS ADMISSIBLE IN EVIDENCE, THE USE OF THAT
17 RECORD OR EXHIBIT IN A PROCEEDING BEFORE THE BOARD OR ANY OF ITS
18 INVESTIGATORY BODIES DOES NOT PREVENT ITS PRODUCTION IN ANY OTHER
19 PROCEEDING.

20 12-316.

21 (a) Except as provided in this section for an action under § 12-313 of this subtitle,
22 any person aggrieved by a final decision of the Board in a contested case, as defined in
23 the Administrative Procedure Act, may:

24 (1) Appeal that decision to the Board of Review; and

25 (2) Then take any further appeal allowed by the Administrative Procedure
26 Act.

27 (b) (1) Any person aggrieved by a final decision of the Board under § 12-313 of
28 this subtitle may not appeal to the Secretary or Board of Review but may take a direct
29 judicial appeal.

30 (2) The appeal shall be made as provided for judicial review of final
31 decisions in the Administrative Procedure Act.

32 (C) AN ORDER OF THE BOARD MAY NOT BE STAYED PENDING
33 ADMINISTRATIVE OR JUDICIAL REVIEW.

34 12-317.

35 (a) [In this section "pharmacist rehabilitation committee" means a committee
36 that:

37 (1) Is within one of the categories described in subsection (b) of this section;
38 and

7

1 (2) Performs any of the functions listed in subsection (c) of this section.

2 (b) For purposes of this section, a pharmacist rehabilitation committee is:

3 (1) A committee of the Maryland Pharmaceutical Association;

4 (2) The Maryland Society of Hospital Pharmacists; or

5 (3) Any other professional society or association that:

6 (i) Is recognized by the Board; and

7 (ii) Is composed of pharmacists.]

8 IN THIS SECTION "PHARMACIST REHABILITATION COMMITTEE" MEANS A
9 GROUP, THE MAJORITY OF WHICH IS COMPRISED OF PHARMACISTS, THAT IS
10 RECOGNIZED BY THE BOARD.

11 [(c)] (B) For purposes of this section, a pharmacist rehabilitation committee
12 evaluates and provides assistance to any pharmacist in need of treatment and
13 rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical,
14 emotional, or mental condition.

15 [(d)] (C) (1) Except as otherwise provided in this section, the proceedings,
16 records, and files of a pharmacist rehabilitation committee are not discoverable and are
17 not admissible in evidence in any civil action arising out of matters that are being or have
18 been reviewed and evaluated by the pharmacist rehabilitation committee.

19 (2) Paragraph (1) of this subsection does not apply to any record or
20 document that is considered by the pharmacist rehabilitation committee and that
21 otherwise would be subject to discovery and introduction into evidence in a civil trial.

22 (3) For purposes of this subsection, civil action does not include a
23 proceeding before the Board or judicial review of a proceeding before the Board.

24 [(e)] (D) A person who acts in good faith and within the scope of jurisdiction of a
25 pharmacist rehabilitation committee is not civilly liable for any action as a member of the
26 pharmacist rehabilitation committee or for giving information to, participating in, or
27 contributing to the function of the pharmacist rehabilitation committee.

28 12-318.

29 (A) IN THIS SECTION "PHARMACY REVIEW COMMITTEE" MEANS AN
30 ADVISORY COMMITTEE APPOINTED BY THE BOARD FROM A POOL OF BOARD
31 APPROVED PHARMACISTS TO AID THE BOARD IN LICENSING AND DISCIPLINARY
32 MATTERS.

33 (B) A PHARMACY REVIEW COMMITTEE SHALL:

34 (1) EVALUATE AND SEEK TO IMPROVE THE QUALITY OF
35 PHARMACEUTICAL CARE PROVIDED BY PROVIDERS OF PHARMACEUTICAL CARE;

36 (2) EVALUATE THE NEED FOR AND THE LEVEL OF PERFORMANCE OF
37 PHARMACEUTICAL CARE PROVIDED BY PROVIDERS OF PHARMACEUTICAL CARE;

8

1 (3) EVALUATE THE QUALIFICATIONS, COMPETENCE, AND
2 PERFORMANCE OF PROVIDERS OF PHARMACEUTICAL CARE; OR

3 (4) EVALUATE AND ACT ON MATTERS THAT RELATE TO THE
4 DISCIPLINE OF ANY PROVIDER OF PHARMACEUTICAL CARE.

5 (C) (1) THIS SECTION DOES NOT APPLY TO:

6 (I) A CIVIL ACTION BROUGHT BY A PARTY TO THE PROCEEDINGS
7 OF THE PHARMACY REVIEW COMMITTEE WHO CLAIMS TO BE AGGRIEVED BY THE
8 DECISION OF THE PHARMACY REVIEW COMMITTEE; OR

9 (II) ANY RECORD OR DOCUMENT THAT IS CONSIDERED BY THE
10 PHARMACY REVIEW COMMITTEE AND THAT OTHERWISE WOULD BE SUBJECT TO
11 DISCOVERY AND INTRODUCTION INTO EVIDENCE IN A CIVIL TRIAL.

12 (2) THE PROCEEDINGS, RECORDS, AND FILES OF A PHARMACY REVIEW
13 COMMITTEE ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN
14 ANY CIVIL ACTION ARISING OUT OF MATTERS THAT ARE BEING REVIEWED AND
15 EVALUATED BY THE PHARMACY REVIEW COMMITTEE.

16 (D) A PERSON WHO ACTS IN GOOD FAITH AND WITHIN THE SCOPE OF
17 JURISDICTION OF A PHARMACY REVIEW COMMITTEE IS NOT CIVILLY LIABLE FOR
18 ANY ACTION AS A MEMBER OF THE PHARMACY REVIEW COMMITTEE OR FOR
19 GIVING INFORMATION TO, PARTICIPATING IN, OR CONTRIBUTING TO THE
20 FUNCTION OF THE PHARMACY REVIEW COMMITTEE.

21 12-319.

22 (A) AN ACTION MAY BE MAINTAINED IN THE NAME OF THIS STATE OR THE
23 BOARD TO ENJOIN:

24 (1) THE UNAUTHORIZED PRACTICE OF PHARMACY; OR

25 (2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER §
26 12-313 OF THIS SUBTITLE.

27 (B) AN ACTION MAY BE BROUGHT BY:

28 (1) THE BOARD, IN ITS OWN NAME;

29 (2) THE ATTORNEY GENERAL, IN THE NAME OF THE STATE; OR

30 (3) THE STATE'S ATTORNEY, IN THE NAME OF THE STATE.

31 (C) AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE COUNTY
32 WHERE THE DEFENDANT RESIDES OR ENGAGES IN THE ACTIONS SOUGHT TO BE
33 ENJOINED.

34 (D) PROOF OF ACTUAL DAMAGES OR THAT A PERSON WILL SUSTAIN
35 DAMAGE IF AN INJUNCTION IS NOT GRANTED IS NOT REQUIRED FOR AN ACTION
36 UNDER THIS SECTION.

1 (E) AN ACTION UNDER THIS SECTION IS IN ADDITION TO AND NOT INSTEAD
2 OF CRIMINAL PROSECUTION FOR UNAUTHORIZED PRACTICE OF PHARMACY UNDER
3 § 12-701 OF THIS TITLE OR DISCIPLINARY ACTION UNDER § 12-313 OF THIS SUBTITLE.

4 12-320.

5 (A) IN INVESTIGATING AN ALLEGATION BROUGHT AGAINST A LICENSEE
6 UNDER THIS TITLE, IF THE BOARD HAS REASON TO BELIEVE THAT A LICENSEE MAY
7 CAUSE HARM TO A PERSON AFFECTED BY THE LICENSEE'S PRACTICE, THE BOARD
8 ON ITS OWN INITIATIVE MAY DIRECT THE LICENSEE TO SUBMIT TO AN
9 APPROPRIATE EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY THE
10 BOARD.

11 (B) IN RETURN FOR THE PRIVILEGE GIVEN TO A LICENSEE TO PRACTICE
12 PHARMACY IN THE STATE, THE LICENSEE IS DEEMED TO HAVE:

13 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS
14 SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

15 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
16 EXAMINATION REPORTS OF A HEALTH CARE PROVIDER.

17 (C) THE FAILURE OR REFUSAL OF A LICENSEE TO SUBMIT TO AN
18 EXAMINATION REQUIRED UNDER THIS SECTION IS PRIMA FACIE EVIDENCE OF THE
19 LICENSEE'S INABILITY TO PRACTICE PHARMACY COMPETENTLY, UNLESS THE
20 BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE
21 LICENSEE.

22 (D) THE BOARD SHALL PAY THE COST OF ANY EXAMINATION MADE UNDER
23 THIS SECTION.

24 12-409.

25 (A) Subject to the hearing provisions of § 12-411 of this subtitle, the Board may
26 suspend or revoke any pharmacy permit, if the pharmacy:

27 (1) Is conducted so as to endanger the public health or safety;

28 (2) Violates any of the standards specified in § 12-403 of this subtitle; or

29 (3) Otherwise is not conducted in accordance with the law.

30 (B) (1) A NONRESIDENT PHARMACY IS SUBJECT TO THE DISCIPLINARY
31 ACTIONS STATED IN THIS SUBSECTION.

32 (2) THE BOARD MAY FINE A NONRESIDENT PHARMACY IN
33 ACCORDANCE WITH § 12-410 OF THIS SUBTITLE OR DENY, REVOKE, OR SUSPEND THE
34 PERMIT OF A NONRESIDENT PHARMACY FOR ANY VIOLATION OF § 12-403 OF THIS
35 SUBTITLE.

36 (3) THE BOARD MAY FINE A NONRESIDENT PHARMACY IN
37 ACCORDANCE WITH § 12-410 OF THIS SUBTITLE OR DENY, REVOKE, OR SUSPEND THE
38 PERMIT OF A NONRESIDENT PHARMACY FOR CONDUCT WHICH CAUSES HARM OR
39 INJURY TO A PERSON IN THIS STATE ONLY IF:

10

1 (I) THE BOARD HAS REFERRED THE MATTER TO THE
2 REGULATORY OR LICENSING AGENCY IN THE STATE IN WHICH THE PHARMACY IS
3 LOCATED; AND

4 (II) THE REGULATORY OR LICENSING AGENCY FAILS TO INITIATE
5 AN INVESTIGATION WITHIN 45 DAYS OF RECEIPT OF THE REFERRAL.

6 (4) THE BOARD SHALL ACCEPT AS THE FINAL DISPOSITION THE
7 DECISION OF THE REGULATORY OR LICENSING AGENCY IN THE STATE WHERE THE
8 NONRESIDENT PHARMACY IS LOCATED IF:

9 (I) THE REGULATORY OR LICENSING AGENCY IN THE STATE
10 WHERE THE NONRESIDENT PHARMACY IS LOCATED INITIATES AN INVESTIGATION
11 WITHIN 45 DAYS OF THE REFERRAL; AND

12 (II) ALL RELEVANT INFORMATION ACQUIRED BY THE
13 REGULATORY OR LICENSING AGENCY IN THE STATE WHERE THE NONRESIDENT
14 PHARMACY IS LOCATED IS PROVIDED TO THE BOARD WITHIN A REASONABLE
15 PERIOD.

16 12-410.

17 (a) If after a hearing under § 12-411 of this subtitle the Board finds that there are
18 grounds under § 12-409 of this subtitle to suspend or revoke a permit, the Board may
19 impose a penalty not exceeding [\$5,000] \$50,000:

20 (1) Instead of suspending the permit; or

21 (2) In addition to suspending or revoking the permit.

22 (b) The Board shall adopt rules and regulations to set standards for the
23 imposition of penalties under this section.

24 (c) The Board shall pay any penalty collected under this section into the General
25 Fund of this State.

26 12-604.

27 (a) The Secretary, the Board, or the agents of either, during business hours, may:

28 (1) Enter any place where drugs, [medicines,] devices, DIAGNOSTICS,
29 cosmetics, dentifrices, domestic remedies, or toilet articles are manufactured, packaged,
30 stocked, or offered for sale; and

31 (2) Inspect the drugs, [medicines,] devices, DIAGNOSTICS, cosmetics,
32 dentifrices, domestic remedies, and toilet articles there.

33 (b) A person may not hinder an inspection conducted under this section.

34 12-707.

35 (a) A person who violates any provision of the following subtitles or sections of
36 this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
37 [\$100] \$1,000:

11

- 1 (1) § 12-311 ("Display of licenses");
- 2 (2) Subtitle 4 ("Pharmacy permits");
- 3 [(3) § 12-501 ("Supervision by licensed pharmacist");]
- 4 [(4)] (3) § 12-502(b) ("Pharmaceutical information");
- 5 [(5) § 12-503 ("Required equipment and sanitary appliances; cleanliness of
- 6 premises");
- 7 (6) § 12-504 ("Required publications");
- 8 (7) § 12-505 ("Required records");
- 9 (8) § 12-506 ("Storage of drugs, medicines, and devices");
- 10 (9)] (4) [§ 12-509] § 12-505 ("Labeling requirements for prescription
- 11 medicines"); AND
- 12 [(10) § 12-510 ("Inspection of pharmacies"); and
- 13 (11)] (5) § 12-604 ("General power to inspect drugs, DEVICES,
- 14 [medicines,] and other products").

15 (b) A person who violates any provision of the following sections of this title is
16 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
17 imprisonment not exceeding 1 year or both:

- 18 (1) § 12-601 ("Manufacturing and packaging");
- 19 (2) § 12-602 ("Distribution permits");
- 20 (3) § 12-701 ("Practicing pharmacy without license");
- 21 (4) § 12-702 ("License obtained by false representation");
- 22 (5) § 12-703 ("Operating a pharmacy without permit"); and
- 23 (6) § 12-704 ("Misrepresentations").

24 (c) Each day that a violation of any section of Subtitle 4 of this title continues
25 constitutes a separate offense.

26 (d) Within 10 days after a court renders the conviction, the court shall report to
27 the Board each conviction of a pharmacist for:

- 28 (1) Any crime [respecting] REGARDING the pharmacy or drug laws that
- 29 involves professional misconduct; or
- 30 (2) Any crime that involves the State law regarding controlled dangerous
- 31 substances or the federal narcotic laws.

32 (E) (1) ANY PERSON WHO VIOLATES § 12-701 ("PRACTICING PHARMACY
33 WITHOUT A LICENSE") OR § 12-703 ("OPERATING A PHARMACY WITHOUT A PERMIT")

12

1 OF THIS SUBTITLE IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$50,000 TO BE
2 ASSESSED BY THE BOARD.

3 (2) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
4 SUBSECTION INTO THE STATE BOARD OF PHARMACY FUND.

5 SECTION 2. AND BE IT FURTHER ENACTED, That §§ 12-313(b)(15), (16),
6 (26), and (27) and 12-707(a)(4) of the Health Occupations Article, as enacted by Section
7 1 of this Act, shall take effect October 1, 1997, contingent on the taking effect of Chapter
8 ____ (H.B. ____)(71r1757) of the Acts of the General Assembly of 1997, and if Chapter
9 ____ does not become effective, §§ 12-313(b)(15), (16), (26), and (27) and 12-707(a)(4)
10 of the Health Occupations Article, as enacted by Section 1 of this Act, shall be null and
11 void without the necessity of further action by the General Assembly.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1997.