

1 SB537  
2 138513-1  
3 By Senator Beasley  
4 RFD: Health  
5 First Read: 19-APR-12

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8 SYNOPSIS: Under existing law, the Alabama State Board  
9 of Pharmacy is responsible for regulating the  
10 practice of pharmacy and the operation of  
11 pharmacies in the state.

12 This bill would allow pharmacies in Alabama  
13 to accept unused or expired dispensed medications  
14 for destruction.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT  
19

20 To amend Section 34-23-70, Code of Alabama 1975,  
21 relating to the practice of pharmacy and the operation of  
22 pharmacies; to allow pharmacies in Alabama to accept unused or  
23 expired dispensed medications for destruction.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 34-23-70 of the Code of Alabama  
26 1975, is amended to read as follows:

27 "§34-23-70.

1           "(a) Every pharmacy when opened for business shall  
2 be under the personal supervision of a duly licensed  
3 pharmacist who shall have personal supervision of not more  
4 than one pharmacy at the same time. During temporary absences  
5 of the licensed pharmacist, not to exceed three hours daily or  
6 more than one and one-half hours at any one time, nor more  
7 than one week for temporary illness, the prescription  
8 department shall be closed, and no prescriptions are to be  
9 filled. During the temporary absence of a pharmacist, a sign  
10 shall be placed on the prescription counter in a prominent  
11 location easily seen by the public stating, "Prescription  
12 Department Closed, No Pharmacist on Duty."

13           "(b) The permit issued to each pharmacist by the  
14 board and the licensure certificates issued to the licensed  
15 pharmacist employed by each pharmacy must be prominently and  
16 conspicuously displayed in the pharmacy. The name of the  
17 licensed pharmacist on duty must be conspicuously displayed in  
18 the prescription department in a place readily observable by  
19 the public.

20           "(c) (1) No licensed pharmacist or pharmacy operating  
21 within this state shall accept for refund purposes or  
22 otherwise any unused portion of any dispensed prescription.

23           "(2) The prohibition in subdivision (1) shall not  
24 apply to any unused or expired dispensed medication returned  
25 solely for the purpose of destruction in compliance with  
26 applicable law or rules of the board.

1           "(d) The sale of poisons is restricted to the  
2 immediate supervision of a licensed pharmacist, and such  
3 poison shall not be displayed in a pharmacy in such a manner  
4 that a customer may obtain possession of such poisons when  
5 standing in an area allocated for customer use. No sale of a  
6 poison shall be made or delivered to any minor under 12 years  
7 of age or to any person known to be of unsound mind or under  
8 the influence of alcohol.

9           "(e) No pharmacy shall authorize any person, firm,  
10 or business establishment to serve as a pick-up station or  
11 intermediary for the purpose of having prescriptions filled or  
12 delivered, whether for profit or gratuitously. Except with  
13 respect to controlled substances, the following federally  
14 qualified health care centers are expressly exempt from this  
15 subsection: Birmingham Health Care, Inc., Central Alabama  
16 Comprehensive Health, Inc., Health Services, Inc., Family  
17 Oriented Primary Health Care Clinic/Mobile County Health  
18 Department, Franklin Primary Health Center, Quality of Life  
19 Health Services, Inc., and Whatley Health Services, Inc. Each  
20 named federally qualified health center is authorized to fill  
21 certain prescriptions at one location and deliver medications  
22 to clinics for patient pick-up subject to the review of the  
23 Board of Pharmacy.

24           "(f) No prescription blank supplied by a pharmacy or  
25 pharmacist to a practitioner shall bear the imprint thereon of  
26 the name or address of any pharmacy or bear the name or  
27 address of any person registered under this chapter.

1           "(g) No person shall fill or compound a prescription  
2 or drug order in an institution unless he is a duly licensed  
3 pharmacist or otherwise permitted to do so under the  
4 provisions of this chapter. The act of filling or compounding  
5 prescriptions or drug orders in an institution shall be as  
6 defined in the rules and regulations adopted by the board of  
7 pharmacy.

8           "However, such rules and regulations shall not apply  
9 to the reading, interpreting, and writing or verifying the  
10 writing of adequate directions as are necessary to assure  
11 patient's understanding of the prescriber's intentions by a  
12 duly qualified nurse practicing her/his profession in a  
13 licensed hospital or similar institution.

14           "Nothing in this chapter shall authorize the Board  
15 of Pharmacy to promulgate or to enforce any rule or regulation  
16 which governs, regulates, or restricts the professional  
17 practice of a physician licensed to practice medicine in this  
18 state. No provision of this chapter, or any rule promulgated  
19 under the authority of this chapter shall be interpreted to  
20 amend, alter, or modify the provisions of Section 34-23-11.

21           "(h) Only a licensed pharmacist or registered intern  
22 may accept an oral prescription of any nature. Upon so  
23 accepting such oral prescription, it must immediately be  
24 reduced to writing, and only a licensed pharmacist or an  
25 intern supervised by a licensed pharmacist may prepare a copy  
26 of a prescription or read a prescription to any person for  
27 purposes of providing reference concerning treatment of the

1 person or animal for whom the prescription was written; and,  
2 when the copy is given, a notation shall be made upon the  
3 prescription that a copy has been given, the date given, and  
4 to whom given.

5 "(i) If a prescription is refilled, a record of the  
6 date upon which the prescription is refilled must appear on  
7 the prescription or in a permanent prescription record book.  
8 On prescriptions which may be refilled, written or oral  
9 authorization must be received before refilling unless the  
10 number of refills is indicated on the original prescription.  
11 Those prescriptions marked "refill prn" or equivalent  
12 designation shall be refilled only in quantities commensurate  
13 with the dosage scheduled.

14 "(j) Each prescription must be written in a manner  
15 so that it can be compounded by any registered pharmacist. The  
16 coding of any prescription is in violation of this chapter. No  
17 prescription shall be written in any characters, figures, or  
18 ciphers, other than in the English or Latin language,  
19 generally in use among medical and pharmaceutical  
20 practitioners.

21 "(k) A prescription file or files shall be kept by  
22 every pharmacy for a period of not less than two years in  
23 which the original of every prescription compounded or  
24 dispensed shall be filed in the order of compounding with  
25 number and date of dispensing placed on each prescription.  
26 Each pharmacy shall produce any prescription file whenever  
27 legally required to do so. Such prescription file shall at all

1 times be open for inspection by the prescriber, the board of  
2 pharmacy, or its inspectors.

3 "(l) All drugs or drug preparations bearing upon the  
4 package the words, "caution, federal law prohibits dispensing  
5 without prescription" or words to the same effect, otherwise  
6 known as "legend drugs," shall be stored within the confines  
7 of the prescription department or the prescription department  
8 storage room of each pharmacy. Such drugs shall be sold or  
9 dispensed only on the prescription of a licensed practitioner  
10 authorized to prescribe such drugs and shall not be sold or  
11 dispensed as a refilled prescription except upon the express  
12 authorization of the prescriber. This shall not be construed  
13 to prohibit return to authorized suppliers or sale or transfer  
14 to others licensed to possess legend drugs.

15 "(m) Any person who violates any of the provisions  
16 of this section shall be guilty of a misdemeanor."

17 Section 2. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.