

By: Senator(s) Tollison

To: Public Health and
Welfare

SENATE BILL NO. 2636

1 AN ACT TO AMEND SECTION 73-19-157, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE OPTOMETRISTS WHO HAVE BEEN CERTIFIED TO PRESCRIBE AND
3 USE THERAPEUTIC PHARMACEUTICAL AGENTS TO ADMINISTER AND PRESCRIBE
4 ANY PHARMACEUTICAL AGENTS RATIONAL TO THE EXAMINATION, DIAGNOSIS,
5 MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE; TO
6 AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PERFORM PRIMARY EYE CARE
7 PROCEDURES RATIONAL TO THE MANAGEMENT OR TREATMENT OF CONDITIONS
8 OR DISEASES OF THE EYE; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS
9 TO PERFORM OR ORDER PROCEDURES AND LABORATORY TESTS RATIONAL TO
10 THE DIAGNOSIS OF CONDITIONS OR DISEASES OF THE EYE; TO AMEND
11 SECTION 73-19-165, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
12 PRECEDING SECTION; TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF
13 1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS AS "PRACTITIONERS"
14 UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO AMEND SECTION
15 41-29-137, MISSISSIPPI CODE OF 1972, TO PROHIBIT THOSE CERTIFIED
16 OPTOMETRISTS FROM PRESCRIBING, ADMINISTERING, DISPENSING OR USING
17 ANY CONTROLLED SUBSTANCE IN SCHEDULE I OR II; TO AMEND SECTIONS
18 41-29-109, 41-29-125, 41-29-133, 41-29-157, 41-29-159, 41-29-167
19 AND 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE
20 BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED
21 OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT
22 THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND
23 CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; AND FOR
24 RELATED PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 SECTION 1. Section 73-19-157, Mississippi Code of 1972, is
27 amended as follows:

28 73-19-157. * * * Any optometrist certified to prescribe and
29 use therapeutic pharmaceutical agents under Sections 73-19-153
30 through 73-19-165 is authorized to examine, diagnose, manage and
31 treat visual defects, abnormal conditions and diseases of the
32 human eye and adnexa including:

33 (a) The administration and prescribing of
34 pharmaceutical agents rational to the examination, diagnosis,
35 management or treatment of visual defects, abnormal conditions or
36 diseases of the * * * eye or adnexa for proper optometric
37 practice;

38 (b) The performance of primary eye care procedures
39 rational to the management or treatment of visual defects,
40 abnormal conditions or diseases of the eye or adnexa as determined
41 by the State Board of Optometry;

42 (c) The performance or ordering of procedures and
43 laboratory tests rational to the diagnosis of visual defects,
44 abnormal conditions or diseases of the eye or adnexa; and

45 (d) The authority to administer benadryl, epinephrine
46 or equivalent medication to counteract anaphylaxis or anaphylactic
47 reaction.

48 * * *

49 SECTION 2. Section 73-19-165, Mississippi Code of 1972, is
50 amended as follows:

51 73-19-165. Any pharmacist licensed under the laws of the
52 State of Mississippi is authorized to fill and dispense * * *
53 therapeutic pharmaceutical agents to patients for any optometrist
54 certified by the State Board of Optometry to use such agents.

55 SECTION 3. Section 41-29-105, Mississippi Code of 1972, is
56 amended as follows:

57 41-29-105. The following words and phrases, as used in this
58 article, shall have the following meanings, unless the context
59 otherwise requires:

60 (a) "Administer" means the direct application of a
61 controlled substance, whether by injection, inhalation, ingestion
62 or any other means, to the body of a patient or research subject
63 by:

64 (1) A practitioner (or, in his presence, by his
65 authorized agent); or

66 (2) The patient or research subject at the
67 direction and in the presence of the practitioner.

68 (b) "Agent" means an authorized person who acts on
69 behalf of or at the direction of a manufacturer, distributor or
70 dispenser. Such word does not include a common or contract

71 carrier, public warehouseman or employee of the carrier or
72 warehouseman. This definition shall not be applied to the term
73 "agent" when such term clearly designates a member or officer of
74 the Bureau of Narcotics or other law enforcement organization.

75 (c) "Board" means the Mississippi State Board of
76 Medical Licensure.

77 (d) "Bureau" means the Mississippi Bureau of Narcotics.
78 However, where the title "Bureau of Drug Enforcement" occurs, that
79 term shall also refer to the Mississippi Bureau of Narcotics.

80 (e) "Commissioner" means the Commissioner of the
81 Department of Public Safety.

82 (f) "Controlled substance" means a drug, substance or
83 immediate precursor in Schedules I through V of Sections 41-29-113
84 through 41-29-121.

85 (g) "Counterfeit substance" means a controlled
86 substance which, or the container or labeling of which, without
87 authorization, bears the trademark, trade name, or other
88 identifying mark, imprint, number or device, or any likeness
89 thereof, of a manufacturer, distributor or dispenser other than
90 the person who in fact manufactured, distributed or dispensed the
91 substance.

92 (h) "Deliver" or "delivery" means the actual,
93 constructive, or attempted transfer from one (1) person to another
94 of a controlled substance, whether or not there is an agency
95 relationship.

96 (i) "Director" means the Director of the Bureau of
97 Narcotics.

98 (j) "Dispense" means to deliver a controlled substance
99 to an ultimate user or research subject by or pursuant to the
100 lawful order of a practitioner, including the prescribing,
101 administering, packaging, labeling or compounding necessary to
102 prepare the substance for that delivery.

103 (k) "Dispenser" means a practitioner who dispenses.

104 (1) "Distribute" means to deliver other than by
105 administering or dispensing a controlled substance.

106 (m) "Distributor" means a person who distributes.

107 (n) "Drug" means (1) a substance recognized as a drug
108 in the official United States Pharmacopoeia, official Homeopathic
109 Pharmacopoeia of the United States, or official National
110 Formulary, or any supplement to any of them; (2) a substance
111 intended for use in the diagnosis, cure, mitigation, treatment, or
112 prevention of disease in man or animals; (3) a substance (other
113 than food) intended to affect the structure or any function of the
114 body of man or animals; and (4) a substance intended for use as a
115 component of any article specified in this paragraph. Such word
116 does not include devices or their components, parts, or
117 accessories.

118 (o) "Hashish" means the resin extracted from any part
119 of the plants of the genus Cannabis and all species thereof or any
120 preparation, mixture or derivative made from or with that resin.

121 (p) "Immediate precursor" means a substance which the
122 board has found to be and by rule designates as being the
123 principal compound commonly used or produced primarily for use,
124 and which is an immediate chemical intermediary used or likely to
125 be used in the manufacture of a controlled substance, the control
126 of which is necessary to prevent, curtail, or limit manufacture.

127 (q) "Manufacture" means the production, preparation,
128 propagation, compounding, conversion or processing of a controlled
129 substance, either directly or indirectly, by extraction from
130 substances of natural origin, or independently by means of
131 chemical synthesis, or by a combination of extraction and chemical
132 synthesis, and includes any packaging or repackaging of the
133 substance or labeling or relabeling of its container. The term
134 "manufacture" does not include the preparation, compounding,
135 packaging or labeling of a controlled substance in conformity with
136 applicable state and local law:

137 (1) By a practitioner as an incident to his
138 administering or dispensing of a controlled substance in the
139 course of his professional practice; or

140 (2) By a practitioner, or by his authorized agent
141 under his supervision, for the purpose of, or as an incident to,
142 research, teaching or chemical analysis and not for sale.

143 (r) "Marihuana" means all parts of the plant of the
144 genus Cannabis and all species thereof, whether growing or not,
145 the seeds thereof, and every compound, manufacture, salt,
146 derivative, mixture or preparation of the plant or its seeds,
147 excluding hashish.

148 (s) "Narcotic drug" means any of the following, whether
149 produced directly or indirectly by extraction from substances of
150 vegetable origin, or independently by means of chemical synthesis,
151 or by a combination of extraction and chemical synthesis:

152 (1) Opium and opiate, and any salt, compound,
153 derivative or preparation of opium or opiate;

154 (2) Any salt, compound, isomer, derivative or
155 preparation thereof which is chemically equivalent or identical
156 with any of the substances referred to in clause 1, but not
157 including the isoquinoline alkaloids of opium;

158 (3) Opium poppy and poppy straw; and

159 (4) Cocaine, coca leaves and any salt, compound,
160 derivative or preparation of cocaine, coca leaves, and any salt,
161 compound, isomer, derivative or preparation thereof which is
162 chemically equivalent or identical with any of these substances,
163 but not including decocainized coca leaves or extractions of coca
164 leaves which do not contain cocaine or ecgonine.

165 (t) "Opiate" means any substance having an
166 addiction-forming or addiction-sustaining liability similar to
167 morphine or being capable of conversion into a drug having
168 addiction-forming or addiction-sustaining liability. It does not
169 include, unless specifically designated as controlled under

170 Section 41-29-111, the dextrorotatory isomer of
171 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such
172 word does include its racemic and levorotatory forms.

173 (u) "Opium poppy" means the plant of the species
174 *Papaver somniferum* L., except its seeds.

175 (v) "Paraphernalia" means all equipment, products and
176 materials of any kind which are used, intended for use, or
177 designed for use, in planting, propagating, cultivating, growing,
178 harvesting, manufacturing, compounding, converting, producing,
179 processing, preparing, testing, analyzing, packaging, repackaging,
180 storing, containing, concealing, injecting, ingesting, inhaling or
181 otherwise introducing into the human body a controlled substance
182 in violation of the Uniform Controlled Substances Law. It
183 includes, but is not limited to:

184 (i) Kits used, intended for use, or designed for
185 use in planting, propagating, cultivating, growing or harvesting
186 of any species of plant which is a controlled substance or from
187 which a controlled substance can be derived;

188 (ii) Kits used, intended for use, or designed for
189 use in manufacturing, compounding, converting, producing,
190 processing or preparing controlled substances;

191 (iii) Isomerization devices used, intended for use
192 or designed for use in increasing the potency of any species of
193 plant which is a controlled substance;

194 (iv) Testing equipment used, intended for use, or
195 designed for use in identifying or in analyzing the strength,
196 effectiveness or purity of controlled substances;

197 (v) Scales and balances used, intended for use or
198 designed for use in weighing or measuring controlled substances;

199 (vi) Diluents and adulterants, such as quinine
200 hydrochloride, mannitol, mannite, dextrose and lactose, used,
201 intended for use or designed for use in cutting controlled
202 substances;

203 (vii) Separation gins and sifters used, intended
204 for use or designed for use in removing twigs and seeds from, or
205 in otherwise cleaning or refining, marihuana;

206 (viii) Blenders, bowls, containers, spoons and
207 mixing devices used, intended for use or designed for use in
208 compounding controlled substances;

209 (ix) Capsules, balloons, envelopes and other
210 containers used, intended for use or designed for use in packaging
211 small quantities of controlled substances;

212 (x) Containers and other objects used, intended
213 for use or designed for use in storing or concealing controlled
214 substances;

215 (xi) Hypodermic syringes, needles and other
216 objects used, intended for use or designed for use in parenterally
217 injecting controlled substances into the human body;

218 (xii) Objects used, intended for use or designed
219 for use in ingesting, inhaling or otherwise introducing marihuana,
220 cocaine, hashish or hashish oil into the human body, such as:

- 221 1. Metal, wooden, acrylic, glass, stone,
222 plastic or ceramic pipes with or without screens, permanent
223 screens, hashish heads or punctured metal bowls;
- 224 2. Water pipes;
- 225 3. Carburetion tubes and devices;
- 226 4. Smoking and carburetion masks;
- 227 5. Roach clips, meaning objects used to hold
228 burning material, such as a marihuana cigarette, that has become
229 too small or too short to be held in the hand;
- 230 6. Miniature cocaine spoons and cocaine
231 vials;
- 232 7. Chamber pipes;
- 233 8. Carburetor pipes;
- 234 9. Electric pipes;
- 235 10. Air-driven pipes;

- 236 11. Chillums;
237 12. Bongs; and
238 13. Ice pipes or chillers.

239 In determining whether an object is paraphernalia, a court or
240 other authority should consider, in addition to all other
241 logically relevant factors, the following:

242 (i) Statements by an owner or by anyone in control
243 of the object concerning its use;

244 (ii) Prior convictions, if any, of an owner, or of
245 anyone in control of the object, under any state or federal law
246 relating to any controlled substance;

247 (iii) The proximity of the object, in time and
248 space, to a direct violation of the Uniform Controlled Substances
249 Law;

250 (iv) The proximity of the object to controlled
251 substances;

252 (v) The existence of any residue of controlled
253 substances on the object;

254 (vi) Direct or circumstantial evidence of the
255 intent of an owner, or of anyone in control of the object, to
256 deliver it to persons whom he knows, or should reasonably know,
257 intend to use the object to facilitate a violation of the Uniform
258 Controlled Substances Law; the innocence of an owner, or of anyone
259 in control of the object, as to a direct violation of the Uniform
260 Controlled Substances Law shall not prevent a finding that the
261 object is intended for use, or designed for use as paraphernalia;

262 (vii) Instructions, oral or written, provided with
263 the object concerning its use;

264 (viii) Descriptive materials accompanying the
265 object which explain or depict its use;

266 (ix) National and local advertising concerning its
267 use;

268 (x) The manner in which the object is displayed

269 for sale;

270 (xi) Whether the owner or anyone in control of the
271 object is a legitimate supplier of like or related items to the
272 community, such as a licensed distributor or dealer of tobacco
273 products;

274 (xii) Direct or circumstantial evidence of the
275 ratio of sales of the object(s) to the total sales of the business
276 enterprise;

277 (xiii) The existence and scope of legitimate uses
278 for the object in the community;

279 (xiv) Expert testimony concerning its use.

280 (w) "Person" means individual, corporation, government
281 or governmental subdivision or agency, business trust, estate,
282 trust, partnership or association, or any other legal entity.

283 (x) "Poppy straw" means all parts, except the seeds, of
284 the opium poppy, after mowing.

285 (y) "Practitioner" means:

286 (1) A physician, dentist, veterinarian, scientific
287 investigator, or optometrist certified to prescribe and use
288 therapeutic pharmaceutical agents under Sections 73-19-153 through
289 73-19-165, or other person licensed, registered or otherwise
290 permitted to distribute, dispense, conduct research with respect
291 to or to administer a controlled substance in the course of
292 professional practice or research in this state; and

293 (2) A pharmacy, hospital or other institution
294 licensed, registered, or otherwise permitted to distribute,
295 dispense, conduct research with respect to or to administer a
296 controlled substance in the course of professional practice or
297 research in this state.

298 (z) "Production" includes the manufacture, planting,
299 cultivation, growing or harvesting of a controlled substance.

300 (aa) "Sale," "sell" or "selling" means the actual,
301 constructive or attempted transfer or delivery of a controlled

302 substance for remuneration, whether in money or other
303 consideration.

304 (bb) "State," when applied to a part of the United
305 States, includes any state, district, commonwealth, territory,
306 insular possession thereof, and any area subject to the legal
307 authority of the United States of America.

308 (cc) "Ultimate user" means a person who lawfully
309 possesses a controlled substance for his own use or for the use of
310 a member of his household or for administering to an animal owned
311 by him or by a member of his household.

312 SECTION 4. Section 41-29-137, Mississippi Code of 1972, is
313 amended as follows:

314 41-29-137. (a) Except when dispensed directly by a
315 practitioner, other than a pharmacy, to an ultimate user, no
316 controlled substance in Schedule II, as set out in Section
317 41-29-115, may be dispensed without the written prescription of a
318 practitioner. A practitioner shall keep a record of all
319 controlled substances in Schedule I, II and III administered,
320 dispensed or professionally used by him otherwise than by
321 prescription.

322 In emergency situations, as defined by rule of the State
323 Board of Pharmacy, * * * Schedule II drugs may be dispensed upon
324 oral prescription of a practitioner, reduced promptly to writing
325 and filed by the pharmacy. Prescriptions shall be retained in
326 conformity with the requirements of Section 41-29-133. No
327 prescription for a Schedule II substance may be refilled unless
328 renewed by prescription issued by a licensed medical doctor.

329 (b) Except when dispensed directly by a practitioner, other
330 than a pharmacy, to an ultimate user, a controlled substance
331 included in Schedule III or IV, as set out in Sections 41-29-117
332 and 41-29-119, which is a prescription drug as determined under
333 Federal Control Substance Act, shall not be dispensed without a
334 written or oral prescription of a practitioner. The prescription

335 shall not be filled or refilled more than six (6) months after the
336 date thereof or be refilled more than five (5) times, unless
337 renewed by the practitioner.

338 (c) A controlled substance included in Schedule V, as set
339 out in Section 41-29-121, shall not be distributed or dispensed
340 other than for a medical purpose.

341 (d) An optometrist certified to prescribe and use
342 therapeutic pharmaceutical agents under Sections 73-19-153 through
343 73-19-165 shall not be authorized to prescribe, administer,
344 dispense or use any controlled substance in Schedule I or II.

345 SECTION 5. Section 41-29-109, Mississippi Code of 1972, is
346 amended as follows:

347 41-29-109. The Mississippi Bureau of Narcotics shall have
348 the full cooperation and use of facilities and personnel of the
349 State Board of Pharmacy, the State Board of Medical Licensure, the
350 State Board of Dental Examiners, the State Board of Optometry, the
351 district and county attorneys, and of the Attorney General's
352 office.

353 It shall be the duty of all duly sworn peace officers of the
354 State of Mississippi to enforce the provisions of this article
355 with reference to illicit narcotic and drug traffic. The
356 provisions of this article may likewise be enforced by agents of
357 the United States Drug Enforcement Administration.

358 SECTION 6. Section 41-29-125, Mississippi Code of 1972, is
359 amended as follows:

360 41-29-125. The State Board of Pharmacy may promulgate rules
361 and regulations relating to the registration and control of the
362 manufacture, distribution and dispensing of controlled substances
363 within this state.

364 (a) Every person who manufactures, distributes or
365 dispenses any controlled substance within this state, or who
366 proposes to engage in the manufacture, distribution or dispensing
367 of any controlled substance within this state, must obtain a

368 registration issued by the State Board of Pharmacy, State Board of
369 Medical Licensure, State Board of Dental Examiners or State Board
370 of Optometry, as appropriate, in accordance with its rules. Such
371 registration shall be obtained annually or biennially, as
372 specified by the issuing board, and a reasonable fee may be
373 charged by the issuing board for such registration.

374 (b) Persons registered by the State Board of Pharmacy,
375 with the consent of the United States Drug Enforcement
376 Administration and the State Board of Medical Licensure, State
377 Board of Dental Examiners or State Board of Optometry, to
378 manufacture, distribute, dispense or conduct research with
379 controlled substances may possess, manufacture, distribute,
380 dispense or conduct research with those substances to the extent
381 authorized by their registration and in conformity with the other
382 provisions of this article.

383 (c) The following persons need not register and may
384 lawfully possess controlled substances under this article:

385 (1) An agent or employee of any registered
386 manufacturer, distributor or dispenser of any controlled substance
387 if he is acting in the usual course of his business or employment;

388 (2) A common or contract carrier or warehouseman,
389 or an employee thereof, whose possession of any controlled
390 substance is in the usual course of business or employment;

391 (3) An ultimate user or a person in possession of
392 any controlled substance pursuant to a lawful order of a
393 practitioner or in lawful possession of a Schedule V substance as
394 defined in Section 41-29-121.

395 (d) The State Board of Pharmacy may waive by rule the
396 requirement for registration of certain manufacturers,
397 distributors or dispensers if it finds it consistent with the
398 public health and safety.

399 (e) A separate registration is required at each
400 principal place of business or professional practice where the

401 applicant manufactures, distributes or dispenses controlled
402 substances.

403 (f) The State Board of Pharmacy, Mississippi Bureau of
404 Narcotics, the State Board of Medical Licensure, the State Board
405 of Dental Examiners and the State Board of Optometry may inspect
406 the establishment of a registrant or applicant for registration in
407 accordance with the regulations of these agencies as approved by
408 the board.

409 SECTION 7. Section 41-29-133, Mississippi Code of 1972, is
410 amended as follows:

411 41-29-133. Persons registered to manufacture, distribute, or
412 dispense controlled substances under this article shall keep
413 records and maintain inventories in conformance with the
414 record-keeping and inventory requirements of federal law and with
415 any additional rules that the State Board of Pharmacy, State Board
416 of Medical Licensure, State Board of Dental Examiners or State
417 Board of Optometry may issue.

418 SECTION 8. Section 41-29-157, Mississippi Code of 1972, is
419 amended as follows:

420 41-29-157. (a) Issuance and execution of administrative
421 inspection warrants and search warrants shall be as follows,
422 except as provided in subsection (c) of this section:

423 (1) A judge of any state court of record, or any
424 justice court judge within his jurisdiction, and upon proper oath
425 or affirmation showing probable cause, may issue warrants for the
426 purpose of conducting administrative inspections authorized by
427 this article or rules thereunder, and seizures of property
428 appropriate to the inspections. For purposes of the issuance of
429 administrative inspection warrants, probable cause exists upon
430 showing a valid public interest in the effective enforcement of
431 this article or rules thereunder, sufficient to justify
432 administrative inspection of the area, premises, building or
433 conveyance in the circumstances specified in the application for

434 the warrant. All such warrants shall be served during normal
435 business hours;

436 (2) A search warrant shall issue only upon an affidavit
437 of a person having knowledge or information of the facts alleged,
438 sworn to before the judge or justice court judge and establishing
439 the grounds for issuing the warrant. If the judge or justice
440 court judge is satisfied that grounds for the application exist or
441 that there is probable cause to believe they exist, he shall issue
442 a warrant identifying the area, premises, building or conveyance
443 to be searched, the purpose of the search, and, if appropriate,
444 the type of property to be searched, if any. The warrant shall:

445 (A) State the grounds for its issuance and the
446 name of each person whose affidavit has been taken in support
447 thereof;

448 (B) Be directed to a person authorized by Section
449 41-29-159 to execute it;

450 (C) Command the person to whom it is directed to
451 inspect the area, premises, building or conveyance identified for
452 the purpose specified, and if appropriate, direct the seizure of
453 the property specified;

454 (D) Identify the item or types of property to be
455 seized, if any;

456 (E) Direct that it be served and designate the
457 judge or magistrate to whom it shall be returned;

458 (3) A warrant issued pursuant to this section must be
459 executed and returned within ten (10) days of its date unless,
460 upon a showing of a need for additional time, the court orders
461 otherwise. If property is seized pursuant to a warrant, a copy
462 shall be given to the person from whom or from whose premises the
463 property is taken, together with a receipt for the property taken.
464 The return of the warrant shall be made promptly, accompanied by a
465 written inventory of any property taken. The inventory shall be
466 made in the presence of the person executing the warrant and of

467 the person from whose possession or premises the property was
468 taken, if present, or in the presence of at least one (1) credible
469 person other than the person executing the warrant. A copy of the
470 inventory shall be delivered to the person from whom or from whose
471 premises the property was taken and to the applicant for the
472 warrant;

473 (4) The judge or justice court judge who has issued a
474 warrant shall attach thereto a copy of the return and all papers
475 returnable in connection therewith and file them with the clerk of
476 the appropriate state court for the judicial district in which the
477 inspection was made.

478 (b) The bureau, the State Board of Pharmacy, * * * the State
479 Board of Medical Licensure, the State Board of Dental Examiners or
480 the State Board of Optometry may make administrative inspections
481 of controlled premises in accordance with the following
482 provisions:

483 (1) For purposes of this section only, "controlled
484 premises" means:

485 (A) Places where persons registered or exempted
486 from registration requirements under this article are required to
487 keep records; and

488 (B) Places including factories, warehouses,
489 establishments and conveyances in which persons registered or
490 exempted from registration requirements under this article are
491 permitted to hold, manufacture, compound, process, sell, deliver,
492 or otherwise dispose of any controlled substance.

493 (2) When authorized by an administrative inspection
494 warrant issued in accordance with the conditions imposed in this
495 section an officer or employee designated by the bureau, the State
496 Board of Pharmacy, the State Board of Medical Licensure, the State
497 Board of Dental Examiners or the State Board of Optometry, upon
498 presenting the warrant and appropriate credentials to the owner,
499 operator or agent in charge, may enter controlled premises for the

500 purpose of conducting an administrative inspection.

501 (3) When authorized by an administrative inspection
502 warrant, an officer or employee designated by the bureau, the
503 State Board of Pharmacy, the State Board of Medical Licensure, the
504 State Board of Dental Examiners or the State Board of Optometry
505 may:

506 (A) Inspect and copy records required by this
507 article to be kept;

508 (B) Inspect, within reasonable limits and in a
509 reasonable manner, controlled premises and all pertinent
510 equipment, finished and unfinished material, containers and
511 labeling found therein, and, except as provided in paragraph (5)
512 of this subsection, all other things therein, including records,
513 files, papers, processes, controls and facilities bearing on
514 violation of this article; and

515 (C) Inventory any stock of any controlled
516 substance therein and obtain samples thereof.

517 (4) This section does not prevent the inspection
518 without a warrant of books and records pursuant to an
519 administrative subpoena, nor does it prevent entries and
520 administrative inspections, including seizures of property,
521 without a warrant:

522 (A) If the owner, operator or agent in charge of
523 the controlled premises consents;

524 (B) In situations presenting imminent danger to
525 health or safety;

526 (C) In situations involving inspection of
527 conveyances if there is reasonable cause to believe that the
528 mobility of the conveyance makes it impracticable to obtain a
529 warrant;

530 (D) In any other exceptional or emergency
531 circumstance where time or opportunity to apply for a warrant is
532 lacking; or

533 (E) In all other situations in which a warrant is
534 not constitutionally required.

535 (5) An inspection authorized by this section shall not
536 extend to financial data, sales data, other than shipment data, or
537 pricing data unless the owner, operator or agent in charge of the
538 controlled premises consents in writing.

539 (c) Any agent of the bureau authorized to execute a search
540 warrant involving controlled substances, the penalty for which is
541 imprisonment for more than one (1) year, may, without notice of
542 his authority and purpose, break open an outer door or inner door,
543 or window of a building, or any part of the building, if the judge
544 issuing the warrant:

545 (1) Is satisfied that there is probable cause to
546 believe that:

547 (A) The property sought may, and, if such notice
548 is given, will be easily and quickly destroyed or disposed of; or

549 (B) The giving of such notice will immediately
550 endanger the life or safety of the executing officer or another
551 person; and

552 (2) Has included in the warrant a direction that the
553 officer executing the warrant shall not be required to give such
554 notice.

555 Any officer acting under such warrant shall, as soon as
556 practical, after entering the premises, identify himself and give
557 the reasons and authority for his entrance upon the premises.

558 Search warrants which include the instruction that the
559 executing officer shall not be required to give notice of
560 authority and purpose as authorized by this subsection shall be
561 issued only by the county court or county judge in vacation,
562 chancery court or by the chancellor in vacation, by the circuit
563 court or circuit judge in vacation, or by a justice of the
564 Mississippi Supreme Court.

565 This subsection shall expire and stand repealed from and

566 after July 1, 1974, except that the repeal shall not affect the
567 validity or legality of any search authorized under this
568 subsection and conducted prior to July 1, 1974.

569 SECTION 9. Section 41-29-159, Mississippi Code of 1972, is
570 amended as follows:

571 41-29-159. (a) Any officer or employee of the bureau,
572 investigative unit of the State Board of Pharmacy, investigative
573 unit of the State Board of Medical Licensure, investigative unit
574 of the State Board of Dental Examiners, investigative unit of the
575 State Board of Optometry, any duly sworn peace officer of the
576 State of Mississippi, or any highway patrolman, may, while engaged
577 in the performance of his statutory duties:

578 (1) Carry firearms;

579 (2) Execute and serve search warrants, arrest warrants,
580 subpoenas, and summonses issued under the authority of this state;

581 (3) Make arrests without warrant for any offense under
582 this article committed in his presence, or if he has probable
583 cause to believe that the person to be arrested has committed or
584 is committing a crime; and

585 (4) Make seizures of property pursuant to this article.

586 (b) As divided among the Mississippi Bureau of Narcotics,
587 the State Board of Pharmacy, the State Board of Medical Licensure,
588 the State Board of Dental Examiners and the State Board of
589 Optometry, the primary responsibility of the illicit street
590 traffic or other illicit traffic of drugs is delegated to agents
591 of the Mississippi Bureau of Narcotics. The State Board of
592 Pharmacy is delegated the responsibility of regulating and
593 checking the legitimate drug traffic among pharmacists,
594 pharmacies, hospitals, nursing homes, drug manufacturers, and any
595 other related professions and facilities with the exception of the
596 medical, dental, optometric and veterinary professions. The State
597 Board of Medical Licensure is responsible for regulating and
598 checking the legitimate drug traffic among nurses, physicians,

599 podiatrists and veterinarians. The Mississippi Board of Dental
600 Examiners is responsible for regulating and checking the
601 legitimate drug traffic among dentists and dental hygienists. The
602 State Board of Optometry is responsible for regulating and
603 checking the legitimate drug traffic among optometrists.

604 (c) The provisions of this section shall not be construed to
605 limit or preclude the detection or arrest of persons in violation
606 of Section 41-29-139 by any local law enforcement officer,
607 sheriff, deputy sheriff or peace officer.

608 (d) Agents of the bureau are hereby authorized to
609 investigate the circumstances of deaths which are caused by drug
610 overdose or which are believed to be caused by drug overdose.

611 (e) Any person who shall impersonate in any way the director
612 or any agent, or who shall in any manner hold himself out as
613 being, or represent himself as being, an officer or agent of the
614 Mississippi Bureau of Narcotics shall be guilty of a misdemeanor,
615 and upon conviction thereof shall be punished by a fine of not
616 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
617 Dollars (\$500.00) or by imprisonment for not more than one (1)
618 year, or by both such fine and imprisonment.

619 SECTION 10. Section 41-29-167, Mississippi Code of 1972, is
620 amended as follows:

621 41-29-167. (a) The State Board of Medical Licensure, the
622 Mississippi Bureau of Narcotics, the State Board of
623 Pharmacy, * * * the State Board of Dental Examiners and the State
624 Board of Optometry shall cooperate with federal and other state
625 agencies in discharging their responsibilities concerning traffic
626 in controlled substances and in suppressing the abuse of
627 controlled substances. To this end, they may:

628 (1) Arrange for the exchange of information among
629 governmental officials concerning the use and abuse of controlled
630 substances;

631 (2) Coordinate and cooperate in training programs

632 concerning controlled substance law enforcement at local and state
633 levels;

634 (3) Cooperate with the United States Drug Enforcement
635 Administration by establishing a centralized unit to accept,
636 catalogue, file and collect statistics, including records of drug
637 dependent persons and other controlled substance law offenders
638 within the state, and make the information available for federal,
639 state and local law enforcement purposes; and

640 (4) Conduct programs of eradication aimed at destroying
641 wild or illicit growth of plant species from which controlled
642 substances may be extracted.

643 (b) Results, information and evidence received from the
644 United States Drug Enforcement Administration relating to the
645 regulatory functions of this article, including results of
646 inspections conducted by it may be relied and acted upon by the
647 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the
648 State Board of Medical Licensure, the State Board of Dental
649 Examiners and the State Board of Optometry in the exercise of
650 their regulatory functions under this article.

651 SECTION 11. Section 41-29-171, Mississippi Code of 1972, is
652 amended as follows:

653 41-29-171. (a) The Mississippi Bureau of Narcotics, the
654 State Board of Pharmacy, the State Board of Medical Licensure, the
655 State Board of Dental Examiners and the State Board of Optometry
656 shall encourage research on misuse and abuse of controlled
657 substances. In connection with the research, and in furtherance
658 of the enforcement of this article they may:

659 (1) Establish methods to assess accurately the effects
660 of controlled substances and identify and characterize those with
661 potential for abuse;

662 (2) Make studies and undertake programs of research to:

663 (A) Develop new or improved approaches,
664 techniques, systems, equipment and devices to strengthen the

665 enforcement of this article;

666 (B) Determine patterns of misuse and abuse of
667 controlled substances and the social effects thereof; and

668 (C) Improve methods for preventing, predicting,
669 understanding and dealing with the misuse and abuse of controlled
670 substances;

671 (3) Enter into contracts with public agencies,
672 institutions of higher education, and private organizations or
673 individuals for the purpose of conducting research,
674 demonstrations, or special projects which bear directly on misuse
675 and abuse of controlled substances.

676 (b) The Mississippi Bureau of Narcotics and the State Board
677 of Education may enter into contracts for educational and research
678 activities without performance bonds.

679 (c) The board may authorize the possession and distribution
680 of controlled substances by persons engaged in research. Persons
681 who obtain this authorization are exempt from state prosecution
682 for possession and distribution of controlled substances to the
683 extent of the authorization.

684 SECTION 12. This act shall take effect and be in force from
685 and after July 1, 1999.