

By: Guice

To: Public Health and  
Welfare; Judiciary A

## HOUSE BILL NO. 1115

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

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

28 SECTION 1. Section 73-19-1, Mississippi Code of 1972, is  
29 amended as follows:[LR1]

30 73-19-1. The practice of optometry is defined to be the  
31 application of optical principles, through technical methods and  
32 devices in the examination of human eyes for the purpose of  
33 ascertaining departures from the normal, measuring their  
34 functional powers and adapting optical accessories for the aid  
35 thereof. The practice of optometry shall include the prescribing  
36 and use of therapeutic pharmaceutical agents by optometrists  
37 certified under Sections 73-19-153 through 73-19-165. The  
38 practice of optometry shall not include the performing of

39 injections into the eyeball, cataract surgery or laser surgery,  
40 but shall not preclude the removal of superficial foreign bodies  
41 from the eye or other noninvasive procedures. Nothing in this  
42 section or any other provision of law shall be construed to  
43 prohibit optometrists who have been certified under Sections  
44 73-19-153 through 73-19-165 from providing postophthalmic surgical  
45 or clinical care and management with the advice and consultation  
46 of the operating or treating physician.

47 SECTION 2. Section 73-19-157, Mississippi Code of 1972, is  
48 amended as follows:

49 73-19-157. \* \* \* Any optometrist certified to prescribe and  
50 use therapeutic pharmaceutical agents under Sections 73-19-153  
51 through 73-19-165 is authorized to examine, diagnose, manage and  
52 treat visual defects, abnormal conditions and diseases of the  
53 human eye and adjacent structures including:

54 (a) The administration and prescribing of  
55 pharmaceutical agents by any route of administration rational to  
56 the examination, diagnosis, management or treatment of visual  
57 defects, abnormal conditions or diseases of the \* \* \* eye or  
58 adjacent structures for proper optometric practice;

59 (b) The performance of primary eye care procedures  
60 rational to the management or treatment of visual defects,  
61 abnormal conditions or diseases of the eye or adjacent structures  
62 as determined by the State Board of Optometry;

63 (c) The performance or ordering of procedures and  
64 laboratory tests rational to the diagnosis of visual defects,  
65 abnormal conditions or diseases of the eye or affecting the eye  
66 and adjacent structures; and

67 (d) The authority to administer benadryl, epinephrine  
68 or equivalent medication to counteract anaphylaxis or anaphylactic  
69 reaction.

70 \* \* \*

71 SECTION 3. Section 73-19-165, Mississippi Code of 1972, is  
72 amended as follows:

73 73-19-165. Any pharmacist licensed under the laws of the  
74 State of Mississippi is authorized to fill and dispense \* \* \*  
75 therapeutic pharmaceutical agents to patients for any optometrist

76 certified by the State Board of Optometry to use such agents.

77 SECTION 4. Section 41-29-105, Mississippi Code of 1972, is  
78 amended as follows:

79 41-29-105. The following words and phrases, as used in this  
80 article, shall have the following meanings, unless the context  
81 otherwise requires:

82 (a) "Administer" means the direct application of a  
83 controlled substance, whether by injection, inhalation, ingestion  
84 or any other means, to the body of a patient or research subject  
85 by:

86 (1) A practitioner (or, in his presence, by his  
87 authorized agent); or

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

90 (b) "Agent" means an authorized person who acts on  
91 behalf of or at the direction of a manufacturer, distributor or  
92 dispenser. Such word does not include a common or contract  
93 carrier, public warehouseman or employee of the carrier or  
94 warehouseman. This definition shall not be applied to the term  
95 "agent" when such term clearly designates a member or officer of  
96 the Bureau of Narcotics or other law enforcement organization.

97 (c) "Board" means the Mississippi State Board of  
98 Medical Licensure.

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

102 (e) "Commissioner" means the Commissioner of the  
103 Department of Public Safety.

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

107 (g) "Counterfeit substance" means a controlled  
108 substance which, or the container or labeling of which, without

109 authorization, bears the trademark, trade name, or other  
110 identifying mark, imprint, number or device, or any likeness  
111 thereof, of a manufacturer, distributor or dispenser other than  
112 the person who in fact manufactured, distributed or dispensed the  
113 substance.

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

118 (i) "Director" means the Director of the Bureau of  
119 Narcotics.

120 (j) "Dispense" means to deliver a controlled substance  
121 to an ultimate user or research subject by or pursuant to the  
122 lawful order of a practitioner, including the prescribing,  
123 administering, packaging, labeling or compounding necessary to  
124 prepare the substance for that delivery.

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

126 (l) "Distribute" means to deliver other than by  
127 administering or dispensing a controlled substance.

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

129 (n) "Drug" means (1) a substance recognized as a drug  
130 in the official United States Pharmacopoeia, official Homeopathic  
131 Pharmacopoeia of the United States, or official National  
132 Formulary, or any supplement to any of them; (2) a substance  
133 intended for use in the diagnosis, cure, mitigation, treatment, or  
134 prevention of disease in man or animals; (3) a substance (other  
135 than food) intended to affect the structure or any function of the  
136 body of man or animals; and (4) a substance intended for use as a  
137 component of any article specified in this paragraph. Such word  
138 does not include devices or their components, parts, or  
139 accessories.

140 (o) "Hashish" means the resin extracted from any part  
141 of the plants of the genus Cannabis and all species thereof or any

142 preparation, mixture or derivative made from or with that resin.

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

149 (q) "Manufacture" means the production, preparation,  
150 propagation, compounding, conversion or processing of a controlled  
151 substance, either directly or indirectly, by extraction from  
152 substances of natural origin, or independently by means of  
153 chemical synthesis, or by a combination of extraction and chemical  
154 synthesis, and includes any packaging or repackaging of the  
155 substance or labeling or relabeling of its container. The term  
156 "manufacture" does not include the preparation, compounding,  
157 packaging or labeling of a controlled substance in conformity with  
158 applicable state and local law:

159 (1) By a practitioner as an incident to his  
160 administering or dispensing of a controlled substance in the  
161 course of his professional practice; or

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

165 (r) "Marihuana" means all parts of the plant of the  
166 genus Cannabis and all species thereof, whether growing or not,  
167 the seeds thereof, and every compound, manufacture, salt,  
168 derivative, mixture or preparation of the plant or its seeds,  
169 excluding hashish.

170 (s) "Narcotic drug" means any of the following, whether  
171 produced directly or indirectly by extraction from substances of  
172 vegetable origin, or independently by means of chemical synthesis,  
173 or by a combination of extraction and chemical synthesis:

174 (1) Opium and opiate, and any salt, compound,

175 derivative or preparation of opium or opiate;

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

180                   (3) Opium poppy and poppy straw; and

181                   (4) Cocaine, coca leaves and any salt, compound,  
182 derivative or preparation of cocaine, coca leaves, and any salt,  
183 compound, isomer, derivative or preparation thereof which is  
184 chemically equivalent or identical with any of these substances,  
185 but not including decocainized coca leaves or extractions of coca  
186 leaves which do not contain cocaine or ecgonine.

187                   (t) "Opiate" means any substance having an  
188 addiction-forming or addiction-sustaining liability similar to  
189 morphine or being capable of conversion into a drug having  
190 addiction-forming or addiction-sustaining liability. It does not  
191 include, unless specifically designated as controlled under  
192 Section 41-29-111, the dextrorotatory isomer of  
193 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such  
194 word does include its racemic and levorotatory forms.

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

197                   (v) "Paraphernalia" means all equipment, products and  
198 materials of any kind which are used, intended for use, or  
199 designed for use, in planting, propagating, cultivating, growing,  
200 harvesting, manufacturing, compounding, converting, producing,  
201 processing, preparing, testing, analyzing, packaging, repackaging,  
202 storing, containing, concealing, injecting, ingesting, inhaling or  
203 otherwise introducing into the human body a controlled substance  
204 in violation of the Uniform Controlled Substances Law. It  
205 includes, but is not limited to:

206                   (i) Kits used, intended for use, or designed for  
207 use in planting, propagating, cultivating, growing or harvesting

208 of any species of plant which is a controlled substance or from  
209 which a controlled substance can be derived;

210 (ii) Kits used, intended for use, or designed for  
211 use in manufacturing, compounding, converting, producing,  
212 processing or preparing controlled substances;

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

216 (iv) Testing equipment used, intended for use, or  
217 designed for use in identifying or in analyzing the strength,  
218 effectiveness or purity of controlled substances;

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

221 (vi) Diluents and adulterants, such as quinine  
222 hydrochloride, mannitol, mannite, dextrose and lactose, used,  
223 intended for use or designed for use in cutting controlled  
224 substances;

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

228 (viii) Blenders, bowls, containers, spoons and  
229 mixing devices used, intended for use or designed for use in  
230 compounding controlled substances;

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

234 (x) Containers and other objects used, intended  
235 for use or designed for use in storing or concealing controlled  
236 substances;

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

240 (xii) Objects used, intended for use or designed

241 for use in ingesting, inhaling or otherwise introducing marihuana,  
242 cocaine, hashish or hashish oil into the human body, such as:

- 243 1. Metal, wooden, acrylic, glass, stone,  
244 plastic or ceramic pipes with or without screens, permanent  
245 screens, hashish heads or punctured metal bowls;
- 246 2. Water pipes;
- 247 3. Carburetion tubes and devices;
- 248 4. Smoking and carburetion masks;
- 249 5. Roach clips, meaning objects used to hold  
250 burning material, such as a marihuana cigarette, that has become  
251 too small or too short to be held in the hand;
- 252 6. Miniature cocaine spoons and cocaine  
253 vials;
- 254 7. Chamber pipes;
- 255 8. Carburetor pipes;
- 256 9. Electric pipes;
- 257 10. Air-driven pipes;
- 258 11. Chillums;
- 259 12. Bongos; and
- 260 13. Ice pipes or chillers.

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

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

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

269 (iii) The proximity of the object, in time and  
270 space, to a direct violation of the Uniform Controlled Substances  
271 Law;

272 (iv) The proximity of the object to controlled  
273 substances;



274                   (v) The existence of any residue of controlled  
275 substances on the object;

276                   (vi) Direct or circumstantial evidence of the  
277 intent of an owner, or of anyone in control of the object, to  
278 deliver it to persons whom he knows, or should reasonably know,  
279 intend to use the object to facilitate a violation of the Uniform  
280 Controlled Substances Law; the innocence of an owner, or of anyone  
281 in control of the object, as to a direct violation of the Uniform  
282 Controlled Substances Law shall not prevent a finding that the  
283 object is intended for use, or designed for use as paraphernalia;

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

286                   (viii) Descriptive materials accompanying the  
287 object which explain or depict its use;

288                   (ix) National and local advertising concerning its  
289 use;

290                   (x) The manner in which the object is displayed  
291 for sale;

292                   (xi) Whether the owner or anyone in control of the  
293 object is a legitimate supplier of like or related items to the  
294 community, such as a licensed distributor or dealer of tobacco  
295 products;

296                   (xii) Direct or circumstantial evidence of the  
297 ratio of sales of the object(s) to the total sales of the business  
298 enterprise;

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

301                   (xiv) Expert testimony concerning its use.

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

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

307 (y) "Practitioner" means:

308 (1) A physician, dentist, veterinarian, scientific  
309 investigator, or optometrist certified to prescribe and use  
310 therapeutic pharmaceutical agents under Sections 73-19-153 through  
311 73-19-165, or other person licensed, registered or otherwise  
312 permitted to distribute, dispense, conduct research with respect  
313 to or to administer a controlled substance in the course of  
314 professional practice or research in this state; and

315 (2) A pharmacy, hospital or other institution  
316 licensed, registered, or otherwise permitted to distribute,  
317 dispense, conduct research with respect to or to administer a  
318 controlled substance in the course of professional practice or  
319 research in this state.

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

322 (aa) "Sale," "sell" or "selling" means the actual,  
323 constructive or attempted transfer or delivery of a controlled  
324 substance for remuneration, whether in money or other  
325 consideration.

326 (bb) "State," when applied to a part of the United  
327 States, includes any state, district, commonwealth, territory,  
328 insular possession thereof, and any area subject to the legal  
329 authority of the United States of America.

330 (cc) "Ultimate user" means a person who lawfully  
331 possesses a controlled substance for his own use or for the use of  
332 a member of his household or for administering to an animal owned  
333 by him or by a member of his household.

334 SECTION 5. Section 41-29-137, Mississippi Code of 1972, is  
335 amended as follows:

336 41-29-137. (a) Except when dispensed directly by a  
337 practitioner, other than a pharmacy, to an ultimate user, no  
338 controlled substance in Schedule II, as set out in Section  
339 41-29-115, may be dispensed without the written prescription of a

340 practitioner. A practitioner shall keep a record of all  
341 controlled substances in Schedule I, II and III administered,  
342 dispensed or professionally used by him otherwise than by  
343 prescription.

344 In emergency situations, as defined by rule of the State  
345 Board of Pharmacy, \* \* \* Schedule II drugs may be dispensed upon  
346 oral prescription of a practitioner, reduced promptly to writing  
347 and filed by the pharmacy. Prescriptions shall be retained in  
348 conformity with the requirements of Section 41-29-133. No  
349 prescription for a Schedule II substance may be refilled unless  
350 renewed by prescription issued by a licensed medical doctor.

351 (b) Except when dispensed directly by a practitioner, other  
352 than a pharmacy, to an ultimate user, a controlled substance  
353 included in Schedule III or IV, as set out in Sections 41-29-117  
354 and 41-29-119, which is a prescription drug as determined under  
355 Federal Control Substance Act, shall not be dispensed without a  
356 written or oral prescription of a practitioner. The prescription  
357 shall not be filled or refilled more than six (6) months after the  
358 date thereof or be refilled more than five (5) times, unless  
359 renewed by the practitioner.

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

363 (d) An optometrist certified to prescribe and use  
364 therapeutic pharmaceutical agents under Sections 73-19-153 through  
365 73-19-165 shall not be authorized to prescribe, administer,  
366 dispense or use any controlled substance in Schedule I or II.

367 SECTION 6. Section 41-29-109, Mississippi Code of 1972, is  
368 amended as follows:

369 41-29-109. The Mississippi Bureau of Narcotics shall have  
370 the full cooperation and use of facilities and personnel of the  
371 State Board of Pharmacy, the State Board of Medical Licensure, the  
372 State Board of Dental Examiners, the State Board of Optometry, the

373 district and county attorneys, and of the Attorney General's  
374 office.

375 It shall be the duty of all duly sworn peace officers of the  
376 State of Mississippi to enforce the provisions of this article  
377 with reference to illicit narcotic and drug traffic. The  
378 provisions of this article may likewise be enforced by agents of  
379 the United States Drug Enforcement Administration.

380 SECTION 7. Section 41-29-125, Mississippi Code of 1972, is  
381 amended as follows:

382 41-29-125. The State Board of Pharmacy may promulgate rules  
383 and regulations relating to the registration and control of the  
384 manufacture, distribution and dispensing of controlled substances  
385 within this state.

386 (a) Every person who manufactures, distributes or  
387 dispenses any controlled substance within this state, or who  
388 proposes to engage in the manufacture, distribution or dispensing  
389 of any controlled substance within this state, must obtain a  
390 registration issued by the State Board of Pharmacy, State Board of  
391 Medical Licensure, State Board of Dental Examiners or State Board  
392 of Optometry, as appropriate, in accordance with its rules. Such  
393 registration shall be obtained annually or biennially, as  
394 specified by the issuing board, and a reasonable fee may be  
395 charged by the issuing board for such registration.

396 (b) Persons registered by the State Board of Pharmacy,  
397 with the consent of the United States Drug Enforcement  
398 Administration and the State Board of Medical Licensure, State  
399 Board of Dental Examiners or State Board of Optometry, to  
400 manufacture, distribute, dispense or conduct research with  
401 controlled substances may possess, manufacture, distribute,  
402 dispense or conduct research with those substances to the extent  
403 authorized by their registration and in conformity with the other  
404 provisions of this article.

405 (c) The following persons need not register and may

406 lawfully possess controlled substances under this article:

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

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

413 (3) An ultimate user or a person in possession of  
414 any controlled substance pursuant to a lawful order of a  
415 practitioner or in lawful possession of a Schedule V substance as  
416 defined in Section 41-29-121.

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

421 (e) A separate registration is required at each  
422 principal place of business or professional practice where the  
423 applicant manufactures, distributes or dispenses controlled  
424 substances.

425 (f) The State Board of Pharmacy, Mississippi Bureau of  
426 Narcotics, the State Board of Medical Licensure, the State Board  
427 of Dental Examiners and the State Board of Optometry may inspect  
428 the establishment of a registrant or applicant for registration in  
429 accordance with the regulations of these agencies as approved by  
430 the board.

431 SECTION 8. Section 41-29-133, Mississippi Code of 1972, is  
432 amended as follows:

433 41-29-133. Persons registered to manufacture, distribute, or  
434 dispense controlled substances under this article shall keep  
435 records and maintain inventories in conformance with the  
436 record-keeping and inventory requirements of federal law and with  
437 any additional rules that the State Board of Pharmacy, State Board  
438 of Medical Licensure, State Board of Dental Examiners or State

439 Board of Optometry may issue.

440 SECTION 9. Section 41-29-157, Mississippi Code of 1972, is  
441 amended as follows:

442 41-29-157. (a) Issuance and execution of administrative  
443 inspection warrants and search warrants shall be as follows,  
444 except as provided in subsection (c) of this section:

445 (1) A judge of any state court of record, or any  
446 justice court judge within his jurisdiction, and upon proper oath  
447 or affirmation showing probable cause, may issue warrants for the  
448 purpose of conducting administrative inspections authorized by  
449 this article or rules thereunder, and seizures of property  
450 appropriate to the inspections. For purposes of the issuance of  
451 administrative inspection warrants, probable cause exists upon  
452 showing a valid public interest in the effective enforcement of  
453 this article or rules thereunder, sufficient to justify  
454 administrative inspection of the area, premises, building or  
455 conveyance in the circumstances specified in the application for  
456 the warrant. All such warrants shall be served during normal  
457 business hours;

458 (2) A search warrant shall issue only upon an affidavit  
459 of a person having knowledge or information of the facts alleged,  
460 sworn to before the judge or justice court judge and establishing  
461 the grounds for issuing the warrant. If the judge or justice  
462 court judge is satisfied that grounds for the application exist or  
463 that there is probable cause to believe they exist, he shall issue  
464 a warrant identifying the area, premises, building or conveyance  
465 to be searched, the purpose of the search, and, if appropriate,  
466 the type of property to be searched, if any. The warrant shall:

467 (A) State the grounds for its issuance and the  
468 name of each person whose affidavit has been taken in support  
469 thereof;

470 (B) Be directed to a person authorized by Section  
471 41-29-159 to execute it;

472 (C) Command the person to whom it is directed to  
473 inspect the area, premises, building or conveyance identified for  
474 the purpose specified, and if appropriate, direct the seizure of  
475 the property specified;

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

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

480 (3) A warrant issued pursuant to this section must be  
481 executed and returned within ten (10) days of its date unless,  
482 upon a showing of a need for additional time, the court orders  
483 otherwise. If property is seized pursuant to a warrant, a copy  
484 shall be given to the person from whom or from whose premises the  
485 property is taken, together with a receipt for the property taken.  
486 The return of the warrant shall be made promptly, accompanied by a  
487 written inventory of any property taken. The inventory shall be  
488 made in the presence of the person executing the warrant and of  
489 the person from whose possession or premises the property was  
490 taken, if present, or in the presence of at least one (1) credible  
491 person other than the person executing the warrant. A copy of the  
492 inventory shall be delivered to the person from whom or from whose  
493 premises the property was taken and to the applicant for the  
494 warrant;

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

500 (b) The bureau, the State Board of Pharmacy, \* \* \* the State  
501 Board of Medical Licensure, the State Board of Dental Examiners or  
502 the State Board of Optometry may make administrative inspections  
503 of controlled premises in accordance with the following  
504 provisions:

505 (1) For purposes of this section only, "controlled  
506 premises" means:

507 (A) Places where persons registered or exempted  
508 from registration requirements under this article are required to  
509 keep records; and

510 (B) Places including factories, warehouses,  
511 establishments and conveyances in which persons registered or  
512 exempted from registration requirements under this article are  
513 permitted to hold, manufacture, compound, process, sell, deliver,  
514 or otherwise dispose of any controlled substance.

515 (2) When authorized by an administrative inspection  
516 warrant issued in accordance with the conditions imposed in this  
517 section an officer or employee designated by the bureau, the State  
518 Board of Pharmacy, the State Board of Medical Licensure, the State  
519 Board of Dental Examiners or the State Board of Optometry, upon  
520 presenting the warrant and appropriate credentials to the owner,  
521 operator or agent in charge, may enter controlled premises for the  
522 purpose of conducting an administrative inspection.

523 (3) When authorized by an administrative inspection  
524 warrant, an officer or employee designated by the bureau, the  
525 State Board of Pharmacy, the State Board of Medical Licensure, the  
526 State Board of Dental Examiners or the State Board of Optometry  
527 may:

528 (A) Inspect and copy records required by this  
529 article to be kept;

530 (B) Inspect, within reasonable limits and in a  
531 reasonable manner, controlled premises and all pertinent  
532 equipment, finished and unfinished material, containers and  
533 labeling found therein, and, except as provided in paragraph (5)  
534 of this subsection, all other things therein, including records,  
535 files, papers, processes, controls and facilities bearing on  
536 violation of this article; and

537 (C) Inventory any stock of any controlled



538 substance therein and obtain samples thereof.

539           (4) This section does not prevent the inspection  
540 without a warrant of books and records pursuant to an  
541 administrative subpoena, nor does it prevent entries and  
542 administrative inspections, including seizures of property,  
543 without a warrant:

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

546                   (B) In situations presenting imminent danger to  
547 health or safety;

548                   (C) In situations involving inspection of  
549 conveyances if there is reasonable cause to believe that the  
550 mobility of the conveyance makes it impracticable to obtain a  
551 warrant;

552                   (D) In any other exceptional or emergency  
553 circumstance where time or opportunity to apply for a warrant is  
554 lacking; or

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

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

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

567                   (1) Is satisfied that there is probable cause to  
568 believe that:

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

571 (B) The giving of such notice will immediately  
572 endanger the life or safety of the executing officer or another  
573 person; and

574 (2) Has included in the warrant a direction that the  
575 officer executing the warrant shall not be required to give such  
576 notice.

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

580 Search warrants which include the instruction that the  
581 executing officer shall not be required to give notice of  
582 authority and purpose as authorized by this subsection shall be  
583 issued only by the county court or county judge in vacation,  
584 chancery court or by the chancellor in vacation, by the circuit  
585 court or circuit judge in vacation, or by a justice of the  
586 Mississippi Supreme Court.

587 This subsection shall expire and stand repealed from and  
588 after July 1, 1974, except that the repeal shall not affect the  
589 validity or legality of any search authorized under this  
590 subsection and conducted prior to July 1, 1974.

591 SECTION 10. Section 41-29-159, Mississippi Code of 1972, is  
592 amended as follows:

593 41-29-159. (a) Any officer or employee of the bureau,  
594 investigative unit of the State Board of Pharmacy, investigative  
595 unit of the State Board of Medical Licensure, investigative unit  
596 of the State Board of Dental Examiners, investigative unit of the  
597 State Board of Optometry, any duly sworn peace officer of the  
598 State of Mississippi, or any highway patrolman, may, while engaged  
599 in the performance of his statutory duties:

600 (1) Carry firearms;

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

603 (3) Make arrests without warrant for any offense under

604 this article committed in his presence, or if he has probable  
605 cause to believe that the person to be arrested has committed or  
606 is committing a crime; and

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

608 (b) As divided among the Mississippi Bureau of Narcotics,  
609 the State Board of Pharmacy, the State Board of Medical Licensure,  
610 the State Board of Dental Examiners and the State Board of  
611 Optometry, the primary responsibility of the illicit street  
612 traffic or other illicit traffic of drugs is delegated to agents  
613 of the Mississippi Bureau of Narcotics. The State Board of  
614 Pharmacy is delegated the responsibility of regulating and  
615 checking the legitimate drug traffic among pharmacists,  
616 pharmacies, hospitals, nursing homes, drug manufacturers, and any  
617 other related professions and facilities with the exception of the  
618 medical, dental, optometric and veterinary professions. The State  
619 Board of Medical Licensure is responsible for regulating and  
620 checking the legitimate drug traffic among nurses, physicians,  
621 podiatrists and veterinarians. The Mississippi Board of Dental  
622 Examiners is responsible for regulating and checking the  
623 legitimate drug traffic among dentists and dental hygienists. The  
624 State Board of Optometry is responsible for regulating and  
625 checking the legitimate drug traffic among optometrists.

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

630 (d) Agents of the bureau are hereby authorized to  
631 investigate the circumstances of deaths which are caused by drug  
632 overdose or which are believed to be caused by drug overdose.

633 (e) Any person who shall impersonate in any way the director  
634 or any agent, or who shall in any manner hold himself out as  
635 being, or represent himself as being, an officer or agent of the  
636 Mississippi Bureau of Narcotics shall be guilty of a misdemeanor,

637 and upon conviction thereof shall be punished by a fine of not  
638 less than One Hundred Dollars (\$100.00) nor more than Five Hundred  
639 Dollars (\$500.00) or by imprisonment for not more than one (1)  
640 year, or by both such fine and imprisonment.

641 SECTION 11. Section 41-29-167, Mississippi Code of 1972, is  
642 amended as follows:

643 41-29-167. (a) The State Board of Medical Licensure, the  
644 Mississippi Bureau of Narcotics, the State Board of  
645 Pharmacy, \* \* \* the State Board of Dental Examiners and the State  
646 Board of Optometry shall cooperate with federal and other state  
647 agencies in discharging their responsibilities concerning traffic  
648 in controlled substances and in suppressing the abuse of  
649 controlled substances. To this end, they may:

650 (1) Arrange for the exchange of information among  
651 governmental officials concerning the use and abuse of controlled  
652 substances;

653 (2) Coordinate and cooperate in training programs  
654 concerning controlled substance law enforcement at local and state  
655 levels;

656 (3) Cooperate with the United States Drug Enforcement  
657 Administration by establishing a centralized unit to accept,  
658 catalogue, file and collect statistics, including records of drug  
659 dependent persons and other controlled substance law offenders  
660 within the state, and make the information available for federal,  
661 state and local law enforcement purposes; and

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

665 (b) Results, information and evidence received from the  
666 United States Drug Enforcement Administration relating to the  
667 regulatory functions of this article, including results of  
668 inspections conducted by it may be relied and acted upon by the  
669 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the

670 State Board of Medical Licensure, the State Board of Dental  
671 Examiners and the State Board of Optometry in the exercise of  
672 their regulatory functions under this article.

673 SECTION 12. Section 41-29-171, Mississippi Code of 1972, is  
674 amended as follows:

675 41-29-171. (a) The Mississippi Bureau of Narcotics, the  
676 State Board of Pharmacy, the State Board of Medical Licensure, the  
677 State Board of Dental Examiners and the State Board of Optometry  
678 shall encourage research on misuse and abuse of controlled  
679 substances. In connection with the research, and in furtherance  
680 of the enforcement of this article they may:

681 (1) Establish methods to assess accurately the effects  
682 of controlled substances and identify and characterize those with  
683 potential for abuse;

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

685 (A) Develop new or improved approaches,  
686 techniques, systems, equipment and devices to strengthen the  
687 enforcement of this article;

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

690 (C) Improve methods for preventing, predicting,  
691 understanding and dealing with the misuse and abuse of controlled  
692 substances;

693 (3) Enter into contracts with public agencies,  
694 institutions of higher education, and private organizations or  
695 individuals for the purpose of conducting research,  
696 demonstrations, or special projects which bear directly on misuse  
697 and abuse of controlled substances.

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

701 (c) The board may authorize the possession and distribution  
702 of controlled substances by persons engaged in research. Persons

703 who obtain this authorization are exempt from state prosecution  
704 for possession and distribution of controlled substances to the  
705 extent of the authorization.

706 SECTION 13. This act shall take effect and be in force from  
707 and after July 1, 2000.