

By: White (5th), Minor, Dickerson, Jackson, To: Public Health and
Burton, Harden, Robertson, Hamilton, Lee, Welfare
Jordan, Dawkins, Cuevas, Williamson,
Browning, Tollison, Horhn

SENATE BILL NO. 2837

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.