To:  Public Health and Welfare

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By:  Representative Guice

HOUSE BILL NO.  978

AN ACT TO REENACT SECTIONS 73-19-1 THROUGH 73-19-29 AND
73-19-33 THROUGH 73-19-45, MISSISSIPPI CODE OF 1972, WHICH CREATE
THE OPTOMETRY BOARD AND DESCRIBE ITS POWERS AND DUTIES; TO AMEND
SECTION 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
REPEAL ON THE OPTOMETRY LAWS TO JULY 1, 2005; TO AMEND REENACTED
SECTION 73-19-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
DEFINITION OF THE PRACTICE OF OPTOMETRY; TO AMEND SECTION
73-19-157, MISSISSIPPI CODE OF 1972, TO AUTHORIZE OPTOMETRISTS WHO
HAVE BEEN CERTIFIED TO PRESCRIBE AND USE THERAPEUTIC
PHARMACEUTICAL AGENTS TO ADMINISTER AND PRESCRIBE ANY
PHARMACEUTICAL AGENTS RATIONAL TO THE EXAMINATION, DIAGNOSIS,
MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE; TO
AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PERFORM PRIMARY EYE CARE
PROCEDURES RATIONAL TO THE MANAGEMENT OR TREATMENT OF CONDITIONS
OR DISEASES OF THE EYE; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS
TO PERFORM OR ORDER PROCEDURES AND LABORATORY TESTS RATIONAL TO
THE DIAGNOSIS OF CONDITIONS OR DISEASES OF THE EYE; TO AMEND
SECTION 73-19-165, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
PRECEDING SECTION; TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF
1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS AS "PRACTITIONERS"
UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO AMEND SECTION
41-29-137, MISSISSIPPI CODE OF 1972, TO PROHIBIT THOSE CERTIFIED
OPTOMETRISTS FROM PRESCRIBING, ADMINISTERING, DISPENSING OR USING
ANY CONTROLLED SUBSTANCE IN SCHEDULE I OR II; TO AMEND SECTIONS
41-29-109, 41-29-125, 41-29-139, 41-29-157, 41-29-159, 41-29-167
AND 41-29-107, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE
BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED
OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT
THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND
CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; AND FOR
RELATED PURPOSES.

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

SECTION 1.  Section 73-19-1, Mississippi Code of 1972, is
reenacted and amended as follows:

73-19-1.  The practice of optometry is defined to be the
application of optical principles, through technical methods and
devices in the examination of human eyes for the purpose of
ascertaining departures from the normal, measuring their
functional powers and adapting optical accessories for the aid
thereof. The practice of optometry shall include the prescribing
and use of therapeutic pharmaceutical agents by optometrists
certified under Sections 73-19-153 through 73-19-165. The
practice of optometry shall not include the performing of
injections into the eyeball, cataract surgery or laser surgery,
but shall not preclude the removal of superficial foreign bodies
from the eye or other noninvasive procedures. Nothing in this
section or any other provision of law shall be construed to
prohibit optometrists who have been certified under Sections
73-19-153 through 73-19-165 from providing postophthalmic surgical
or clinical care and management with the advice and consultation
of the operating or treating physician.

SECTION 2. Section 73-19-3, Mississippi Code of 1972, is
reenacted as follows:

73-19-3. It shall not be lawful for any person in this state
to engage in the practice of optometry or to hold himself out as a
practitioner of optometry, or attempt to determine by an
examination of the eyes the kind of glasses needed by any person,
or to hold himself out as able to examine the eyes of any person
for the purpose of fitting the same with glasses, excepting those
hereinafter exempted, unless he has first fulfilled the
requirements of this chapter and has received a certificate of
licensure from the State Board of Optometry created by this
chapter, nor shall it be lawful for any person in this state to
represent that he is the lawful holder of a certificate of
licensure such as provided for in this chapter, when in fact he is
not such lawful holder or to impersonate any licensed practitioner
of optometry, or to fail to register the certificate as provided
by law.

SECTION 3. Section 73-19-5, Mississippi Code of 1972, is
reenacted as follows:

73-19-5. (1) Any person violating the provisions of this
chapter shall be guilty of a misdemeanor and, upon conviction for
his first offense shall be fined not more than Five Hundred Dollars ($500.00) at the discretion of the court, and upon conviction for a second or later offense shall be fined not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00) or imprisoned not less than six (6) months nor more than one (1) year, at the discretion of the court.

(2) Any entity, organization or person, including the board, any member of the board and its agents or employees, acting in good faith and without malice, who makes any report or information available to the board regarding violation of any of the provisions of Sections 73-19-1 through 73-19-111, or who assists in the organization, investigation or preparation of any such report or information or assists the board in carrying out any of its duties or functions provided by law, shall be immune from civil or criminal liability for such acts.

SECTION 4. Section 73-19-7, Mississippi Code of 1972, is reenacted as follows:

73-19-7. The Governor, with the advice and consent of the Senate, shall appoint a State Board of Optometry, consisting of five (5) persons, citizens of Mississippi, each of whom shall be a nonmedical man or woman actually engaged in the practice of optometry for five (5) years next preceding his appointment. Within ninety (90) days after March 25, 1974, the Governor shall appoint: one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years, and one (1) member for a term of five (5) years; and upon the expiration of all such terms their successors shall be appointed by the Governor for a term of five (5) years. From and after July 1, 1983, the appointments to the board shall be made with one (1) member to be appointed from each of the congressional districts as existing on January 1, 1980; provided that the present members of the State Board of Optometry whose terms have not expired by July
1, 1983, shall continue to serve until their terms of office have
expired. Each member shall remain in office after the expiration
of his term until his successor shall be duly appointed and
qualified.

No person so appointed shall be a stockholder in or a member
of the faculty or of the board of trustees of any school of
optometry, or serve to exceed two (2) five-year terms.

Vacancies on said board shall be filled by appointment by the
Governor, with the advice and consent of the Senate, from a list
of names submitted by the Mississippi Optometric Association
consisting of three (3) of its members, or by appointment of any
qualified member of the association.

SECTION 5. Section 73-19-9, Mississippi Code of 1972, is
reenacted as follows:

73-19-9. The State Board of Optometry shall organize by the
election from its members of a president and a secretary, who
shall hold their respective offices for one (1) year.

It shall hold regular meetings for examination, beginning on
the second week of January and July of each year, and additional
meetings at such times and places as the board shall determine,
said additional meetings not to exceed ten (10) meeting days
annually, but the July meeting shall be held in the City of
Jackson.

A majority of the board shall constitute a quorum, but a less
number may adjourn from time to time.

The board shall make such rules and regulations as may be
necessary to carry out the provisions of this chapter; provided,
however, that it shall require the concurrence of a majority of
the members of the board to grant or revoke a license.

SECTION 6. Section 73-19-11, Mississippi Code of 1972, is
reenacted as follows:

73-19-11. Before entering upon the discharge of the duties
of his office the Secretary of the State Board of Optometry shall
give a bond to the state, to be approved by the board, in the sum
of Two Thousand Dollars ($2,000.00) conditioned for the faithful
discharge of the duties of his office. The premium for such bond
to be paid from the funds paid into the State Treasury by the
secretary of the board.

Such bond, with the approval of the board and oath of office
indorsed thereon, shall be deposited with the Secretary of State
and kept in his office. Each month all monies received by the
secretary shall be paid by him into the State Treasury to the
credit of a fund for the use of the State Board of Optometry.

SECTION 7. Section 73-19-13, Mississippi Code of 1972, is
reenacted as follows:

73-19-13. Each member of the State Board of Optometry shall
be entitled to receive per diem as authorized under Section
25-3-69 in addition to all actual, necessary expenses incurred in
the discharge of official duties, including mileage as authorized
by law for state officials and employees.

The secretary shall receive an annual salary, to be fixed by
the board, and his necessary expenses incurred in the discharge of
his official duties. The State Board of Optometry may engage the
services of an attorney to assist it in the discharge of its
duties on terms to be fixed by the board.

The compensation and expenses of the secretary, attorney and
members of the board, and the expenses of the board necessary in
carrying out the provisions of this chapter, shall be paid from
the fund in the State Treasury for use of the board on the
requisition signed by the president and secretary of the board and
the warrant of the auditor of the state; provided, however, that
said compensation and expenses shall not exceed the amount paid
into the State Treasury under the provisions of this chapter; and
provided further, that all expenditures from such special fund
shall be authorized by the Legislature and shall be subject to all
applicable provisions of the state budget law.
SECTION 8. Section 73-19-15, Mississippi Code of 1972, is reenacted as follows:

73-19-15. The State Board of Optometry shall have an official seal and shall keep a record of its proceedings, a register of persons registered as optometrists and register licenses by it revoked.

Its records shall be open to public inspection, and it shall keep on file all examination papers for a period of ninety (90) days after each examination. A transcript of an entry in such records certified by the secretary under the seal of the board, shall be evidence of the facts therein stated. The board shall annually on or before January 1 make a report to the Governor of all its official acts during the preceding year, and of its receipts and disbursements, and a full and complete report of the conditions of optometry in this state.

SECTION 9. Section 73-19-17, Mississippi Code of 1972, is reenacted as follows:

73-19-17. Any person over the age of twenty-one (21) years, of good moral character, and who has graduated from a high school or preparatory school affiliated with and recognized by a state university, and who has graduated from a reputable school or college of optometry, shall be entitled to stand the examination for license to practice optometry in Mississippi. The examining Board of Optometry shall keep on file a list of schools or colleges of optometry which are recognized by said board. The examination to practice optometry shall consist of tests in practical, theoretical and physiological optics, in theoretical and practical optometry and in anatomy and physiology of the eye and in pathology as applied to optometry. The State Board of Optometry shall not examine or certify any optometrist in any therapeutic procedures unless the optometrist has successfully completed the proper didactic education and supervised clinical training taught by an institution accredited by a regional or
professional accreditation organization that is recognized or approved by the Council on Postsecondary Accreditation of the United States Department of Education, or its successor, and approved by the State Board of Optometry with the advice and consultation of the designated members of the State Board of Medical Licensure and the State Board of Pharmacy.

SECTION 10. Section 73-19-19, Mississippi Code of 1972, is reenacted as follows:

73-19-19. Every person desiring to be licensed as in this chapter provided, shall file with the secretary an application, verified by oath, setting forth the facts which entitle the applicant to examination and licensure under the provisions of this chapter. The said board shall hold at least two (2) examinations each year. In case of failure at any examination the applicant, after the expiration of six (6) months and within two (2) years, shall have the privilege of a second examination by the board without the payment of an additional fee. In the case of any applicant who shall fail the examination twice, said applicant shall not be permitted to again take the examination until he has completed a further course of study outlined by the board and paid the examination fee therefor. Every applicant who shall pass the examination, and who shall otherwise comply with the provisions of this chapter, shall receive from the said board under its seal a certificate of licensure entitling him to practice optometry in this state, which certificate shall be duly registered in a record book to be properly kept by the secretary of the board for that purpose, which shall be open to public inspection, and a duly certified copy of said record shall be received as evidence in all courts of this state in the trial of any case.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.
SECTION 11. Section 73-19-21, Mississippi Code of 1972, is reenacted as follows:

73-19-21. Said board shall charge the following fees for examination, registrations and renewals of certificates: The sum of not more than Two Hundred Dollars ($200.00) for an examination of an applicant who is a resident of Mississippi and not more than Three Hundred Dollars ($300.00) for a nonresident of Mississippi to cover the additional expenses of checking references, character and other statements contained in the application. Every registered optometrist who desires to continue the practice of optometry shall, biennially, on or before January 1, pay to the secretary of the board a renewal registration fee of not more than Four Hundred Dollars ($400.00) for which he shall receive a renewal of his certificate. The board, in its discretion, may set the renewal registration fee at different amounts for registered optometrists, for registered optometrists certified to use diagnostic pharmaceutical agents, and for registered optometrists certified to use diagnostic and therapeutic pharmaceutical agents, not to exceed the maximum amount prescribed in this section.

In case of neglect to pay the renewal registration fee herein specified, the board may revoke such certificate and the holder thereof may be reinstated by complying with the conditions specified in this chapter. But no certificate or permit shall be revoked without giving sixty (60) days' notice to the delinquent, who, within such period shall have the right of renewal of such certificate on payment of the renewal fee with a penalty of not more than Fifteen Dollars ($15.00), provided, that retirement from practice for a period not exceeding five (5) years shall not deprive the holder of said certificate of the right to renew his certificate on the payment of all lapsed fees. The board shall adopt a seal and certificate of suitable design and shall conduct its examination at Jackson, in this state. Its permanent records
shall be kept in the office of the secretary, which records shall be open to public inspection.

SECTION 12. Section 73-19-23, Mississippi Code of 1972, is reenacted as follows:

73-19-23. (1) The board shall refuse to grant a certificate of licensure to any applicant and may cancel, revoke or suspend the operation of any certificate by it granted for any or all of the following reasons, to-wit: unprofessional and unethical conduct or the conviction of a crime involving moral turpitude, habitual intemperance in the use of ardent spirits, or stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to incapacitate one for the performance of the duties of an optometrist. The certificate of licensure of any person can be revoked for violating any section of this chapter.

(2) The board shall further be authorized to take disciplinary action against a licensee for any unlawful acts which shall include violations of regulations promulgated by the board, as well as the following acts:

(a) Fraud or misrepresentation in applying for or procuring an optometric license or in connection with applying for or procuring periodic renewal of an optometric license.

(b) Cheating on or attempting to subvert the optometric licensing examination(s).

(c) The conviction of a felony in this state or any other jurisdiction, or the entry of guilty or nolo contendere plea to a felony charge.

(d) The conviction of a felony as defined by federal law, or the entry of a guilty or nolo contendere plea to a felony charge.

(e) Conduct likely to deceive, defraud or harm the public.
(f) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, device, treatment or remedy prescribed by him or her or used at his or her direction in the treatment of any disease or other condition.

(g) Willfully or negligently violating the confidentiality between doctor and patient, except as required by law.

(h) Negligence or gross incompetence in the practice of optometry as determined by the board.

(i) Being found mentally incompetent or insane by any court of competent jurisdiction.

(j) The use of any false, fraudulent, deceptive or misleading statement in any document connected with the practice of optometry.

(k) Aiding or abetting the practice of optometry by an unlicensed, incompetent or impaired person.

(l) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's practice of optometry.

(m) Being addicted or habituated to a drug or intoxicant.

(n) Violating any state or federal law or regulation relating to a drug legally classified as a controlled substance.

(o) Obtaining any fee by fraud, deceit or misrepresentation.

(p) Disciplinary action of another state or jurisdiction against a licensee or other authorization to practice optometry based upon acts or conduct by the licensee similar to acts or conduct which would constitute grounds for action as defined in this chapter, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.
(q) Failure to report to the board the relocation of his or her office in or out of the jurisdiction, or to furnish floor plans as required by regulation.

(r) Violation of any provision(s) of the Optometry Practice Act or the rules and regulations of the board or of an action, stipulation or agreement of the board.

(s) To advertise in a manner that tends to deceive, mislead or defraud the public.

(t) The designation of any person licensed under this chapter, other than by the terms "optometrist," "Doctor of Optometry" or "O.D."

(u) To knowingly submit or cause to be submitted any misleading, deceptive or fraudulent representation on a claim form, bill or statement.

(v) To practice or attempt to practice optometry while his or her license is suspended.

(3) Any person who is holder of a certificate of licensure or who is an applicant for examination for a certificate of licensure, against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing in Jackson, Mississippi, before the board, at which hearing he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting the said charges, and said hearing orders or appeals will be conducted according to the procedure now provided in Section 73-25-27. The suspension of a certificate of licensure, by reason of the use of stimulants or narcotics may be removed when the holder thereof shall have been adjudged by the said board to be cured and capable of practicing optometry.

(4) In addition to the reasons specified in subsections (1) and (2) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure
for suspension of a license for being out of compliance with an
order for support, and the procedure for the reissuance or
reinstatement of a license suspended for that purpose, and the
payment of any fees for the reissuance or reinstatement of a
license suspended for that purpose, shall be governed by Section
93-11-157 or 93-11-163, as the case may be. If there is any
conflict between any provision of Section 93-11-157 or 93-11-163
and any provision of this chapter, the provisions of Section
93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 13. Section 73-19-25, Mississippi Code of 1972, is
reenacted as follows:

73-19-25. An applicant for a certificate of licensure who
has been examined by the state board of another state which,
through reciprocity, similarly accredits the holder of a
certificate issued by the board of this state to the full
privileges of practice within such state, on the payment of a fee
of not more than Fifty Dollars ($50.00) to the said board and on
filing in the office of the board a true and attested copy of the
said license, certified by the president or secretary of the state
board issuing the same, and showing also that the standard
requirements adopted and enforced by said board are equal to that
provided by this state, may, without further examination, receive
a certificate of licensure, provided that such applicant has not
previously failed at an examination held by the board of this
state.

SECTION 14. Section 73-19-27, Mississippi Code of 1972, is
reenacted as follows:

73-19-27. Nothing in this chapter shall be construed as
confering on the holder of any certificate of licensure issued by
said board the title of oculist, ophthalmologist, or any other
word or abbreviation indicating that he is engaged in the practice
of medicine or surgery, or the treatment or the diagnosis of
diseases of, or injuries to, the human eye, or the right to use
drugs or medicines in any forms for the treatment or examination
of the human eye. However, optometrists who have been certified
by the board under the provisions of Sections 73-19-101 through
73-19-109 may use diagnostic pharmaceutical agents in the practice
of optometry in accordance with the requirements of Sections
73-19-101 through 73-19-109, and optometrists who have been
certified by the board under the provisions of Sections 73-19-153
through 73-19-165 may use therapeutic pharmaceutical agents in the
practice of optometry in accordance with the requirements of
Sections 73-19-153 through 73-19-165. Nothing contained in
Chapter 303, Laws of 1991, shall be construed as expanding the
scope of practice of a licensed optometrist beyond that authorized
prior to July 1, 1991.

SECTION 15. Section 73-19-29, Mississippi Code of 1972, is
reenacted as follows:

73-19-29. The provisions of this chapter shall not apply to
physicians or surgeons practicing under authority of licenses
issued under the laws of this state for the practice of medicine
or surgery. And provided that this chapter shall not prohibit
merchants and druggists who are actually engaged in business in
this state from selling and assisting purchasers in fitting
spectacles and eye glasses in their place of business at time of
sale.

SECTION 16. Section 73-19-31, Mississippi Code of 1972, is
amended as follows:

through 73-19-45, which create the Mississippi Board of Optometry
and prescribe its duties and powers, shall stand repealed as of
July 1, 2005.

SECTION 17. Section 73-19-33, Mississippi Code of 1972, is
reenacted as follows:

73-19-33. Complaints, irrespective of source, touching upon
the professional conduct or conduct evincing unfitness for the
practice of optometry made against optometrists licensed in this
state, that may be received by or that may come to the attention
of any member of the board, shall be referred by the president of
the board to an impartial member of the board for preliminary
investigation and further action as may be appropriate. The
complaint must be in writing and signed by the person making the
complaint or charge and shall contain the street address of the
complaining party and each witness.

SECTION 18. Section 73-19-35, Mississippi Code of 1972, is
reenacted as follows:

73-19-35. When any complaint or charge touching upon the
professional conduct or conduct evincing unfitness for the
practice of optometry against any optometrist subject to
discipline hereunder is referred to a member of the board for
investigation, the board member shall take the following action:

(a) Cause the complaint or charge to be filed and
docketed with the secretary of the board; and

(b) Refer the complaint to the board investigator for
further investigation and report.

SECTION 19. Section 73-19-37, Mississippi Code of 1972, is
reenacted as follows:

73-19-37. The board investigator shall immediately
investigate the complaint; and upon completion of his
investigation he shall inform the accused optometrist that a
complaint has been filed against him and that he is under
investigation, advise the accused optometrist of the general
nature of the charges, furnish him a copy of the complaint and any
evidence supporting it, and afford the accused optometrist an
opportunity to respond. Communications and notices to the accused
optometrist shall be transmitted by registered or certified mail,
postage prepaid, to the last known residence or business address
of the licensee.
SECTION 20. Section 73-19-39, Mississippi Code of 1972, is reenacted as follows:

73-19-39. After completion of his investigation, the board investigator shall make a report of his findings and recommendations to the member of the board designated to investigate the matter. After receipt of the investigator's report, the board member shall take the following action:

(a) If upon review of the complaint, board investigator's report and any written response by the accused optometrist, the board member determines that there is not reasonable ground to believe that the accused optometrist has been guilty of unprofessional conduct or conduct evincing unfitness for the practice of optometry, the board member shall present his findings and recommendations to the board at the next regular board meeting. The board may dismiss the complaint or may prepare a formal complaint against the licensee as provided in Section 73-19-41, Mississippi Code of 1972. In the event of dismissal, the person filing the complaint and the accused optometrist shall be given written notice of the board's determination.

(b) If the board member determines there is reasonable cause to believe the accused optometrist is guilty of such conduct, which, if proven, would warrant suspension for a definite or an indefinite period or license revocation, the board member shall request the board to prepare and file a formal complaint against the accused optometrist. The board may dismiss the complaint or may prepare a formal complaint against the licensee as provided in Section 73-19-41, Mississippi Code of 1972. In the event of a dismissal, the person filing the complaint and the accused optometrist shall be given written notice of the board's determination.

SECTION 21. Section 73-19-41, Mississippi Code of 1972, is reenacted as follows:
The board shall fix a time and place for any formal complaint hearing and shall cause a written notice specifying the offense or offenses for which the licensee is charged and notice of the time and place of the hearing to be served upon the licensee at least twenty (20) days prior to the hearing date. Such notice may be served by mailing a copy thereof by certified mail, postage prepaid, to the last known residence or business address of the licensee.

The board is hereby authorized and empowered to issue subpoenas for the attendance of witnesses and the production of books and papers at such hearing. Process issued by the board shall extend to all parts of the state and shall be served by any person designated by the board for such service.

The accused shall have the right to appear either personally or by counsel or both to produce witnesses or evidence in his behalf, to cross-examine witnesses and to have subpoenas issued by the board.

At the hearing, the board shall administer oaths as may be necessary for the proper conduct of the hearing. All hearings shall be conducted by the board, with the exception of the investigating board member who shall not participate in the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient evidence to sustain it. All proceedings shall be transcribed by a court reporter.

Where, in any proceeding before the board, any witness fails or refuses to attend upon a subpoena issued by the board, refuses to testify, or refuses to produce any books and papers the production of which is called for by a subpoena, the attendance of such witness, the giving of his testimony or the production of the books and papers shall be enforced by any court of competent jurisdiction of this state in the manner provided for the
enforcement of attendance and testimony of witnesses in civil cases in the courts of this state.

(6) The board shall, within sixty (60) days after conclusion of the hearing, reduce its decision to writing and forward an attested true copy thereof to the last known residence or business address of such licensee by way of United States first class, certified mail, postage prepaid.

SECTION 22. Section 73-19-43, Mississippi Code of 1972, is reenacted as follows:

73-19-43. (1) Upon finding of the existence of grounds for discipline of any person holding a license, seeking a license, or seeking to renew a license under the provisions of this chapter, the board may impose one or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;

(c) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of optometry in a particular manner for a term to be determined by the board;

(d) Imposition of a monetary penalty as follows:

   (i) For the first violation, a monetary penalty of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) for each violation;

   (ii) For the second violation and subsequent violations, a monetary penalty of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) for each violation;

(e) Refusal to renew offender's license;

(f) Placement of the offender on probation and supervision by the board for a period to be determined by the board;

(g) Public or private reprimand.
(2) Any person whose license has been suspended, revoked or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right to petition the board at reasonable intervals for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may, in its discretion, grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(3) Nothing herein shall be construed as barring criminal prosecutions for violation of this chapter where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(4) A monetary penalty assessed and levied under this section shall be paid to the board by the licensee upon the expiration of the period allowed for appeal of such penalties under Section 73-19-45, Mississippi Code of 1972, or may be paid sooner if the licensee elects. Money collected by the board under this section shall be deposited to the credit of the General Fund of the State Treasury.

(5) When payment of a monetary penalty assessed and levied by the board against a licensee in accordance with this section is not paid by the licensee when due under this section, the board shall have the power to institute and maintain proceedings in its name for enforcement of payment in the Chancery Court of the First Judicial District of Hinds County, Mississippi. When such proceedings are instituted, the board shall certify its order to the chancery court and the matter shall thereupon be heard in due course by the court, which shall review the order and make its
determination thereon. The hearing on the matter may, in the
discretion of the chancellor, be tried in vacation. If the
chancellor finds no errors on the face of the board's order, the
board shall have a judgment for the amount due which shall be
enforceable as all other judgments.

SECTION 23. Section 73-19-45, Mississippi Code of 1972, is
reenacted as follows:

73-19-45. (1) The right to appeal from a final action of
the board is hereby granted. Such appeal shall be to the chancery
court of the county of residence of the licensee and shall be on
the record made, including a verbatim transcript of the testimony
at the hearing. The appeal shall be taken within thirty (30) days
after notice of the action of the board. The appeal shall be
perfected upon filing notice of the appeal with the chancery court
and by the prepayment of all costs, including the cost of the
preparation of the record of the proceedings by the board, and the
filing of a bond in the sum of Two Hundred Dollars ($200.00),
conditioned that if the action of the board be affirmed by the
chancery court, the licensee will pay the costs of the appeal and
the action in the chancery court. A copy of the Notice of Appeal
shall be served upon board counsel.

(2) If there is an appeal, such appeal may, in the
discretion of and on motion to the chancery court, act as a
supersedeas. The chancery court shall dispose of the appeal and
enter its decision promptly. The hearing on the appeal may, in
the discretion of the chancellor, be tried in vacation. The scope
of review of the chancery court shall be limited to a review of
the record made before the board to determine if the action of the
board is unlawful for the reason that it was (a) not supported by
substantial evidence, (b) arbitrary or capricious, (c) beyond the
power of the board to make, or (d) in violation of some statutory
or constitutional right of the appellant. The decision of the
chancery court may be appealed to the Supreme Court in the manner provided by the rules of the Supreme Court.

(3) Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

SECTION 24. Section 73-19-157, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

* * *
SECTION 25. Section 73-19-165, Mississippi Code of 1972, is amended as follows:

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

SECTION 26. Section 41-29-105, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

(e) "Commissioner" means the Commissioner of the Department of Public Safety.
"Controlled substance" means a drug, substance or immediate precursor in Schedules I through V of Sections 41-29-113 through 41-29-121.

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

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

"Director" means the Director of the Bureau of Narcotics.

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

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

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

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

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

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

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

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

(r) "Marihuana" means all parts of the plant of the
genus Cannabis and all species thereof, whether growing or not,
the seeds thereof, and every compound, manufacture, salt,
derivative, mixture or preparation of the plant or its seeds,
excluding hashish.
"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

1. Opium and opiate, and any salt, compound, derivative or preparation of opium or opiate;
2. Any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium;
3. Opium poppy and poppy straw; and
4. Cocaine, coca leaves and any salt, compound, derivative or preparation of cocaine, coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

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

"Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

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

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

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

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

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

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

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

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

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

(ix) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
(x) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
(xi) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
(xii) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
   1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
   2. Water pipes;
   3. Carburetion tubes and devices;
   4. Smoking and carburetion masks;
   5. Roach clips, meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
   6. Miniature cocaine spoons and cocaine vials;
   7. Chamber pipes;
   8. Carburetor pipes;
   9. Electric pipes;
  10. Air-driven pipes;
  11. Chillums;
  12. Bongs; and
  13. Ice pipes or chillers.

In determining whether an object is paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
(i) Statements by an owner or by anyone in control of the object concerning its use;
(ii) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

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

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

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

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

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

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

(ix) National and local advertising concerning its use;

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

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

(xii) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
(xiii) The existence and scope of legitimate uses for the object in the community;
(xiv) Expert testimony concerning its use.

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

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

(y) "Practitioner" means:

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

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

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

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

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

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

SECTI0N 27. Section 41-29-137, Mississippi Code of 1972, is
amended as follows:

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

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

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

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

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

SECTION 28. Section 41-29-109, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(f) The State Board of Pharmacy, Mississippi Bureau of Narcotics, the State Board of Medical Licensure, the State Board of Dental Examiners and the State Board of Optometry may inspect the establishment of a registrant or applicant for registration in accordance with the regulations of these agencies as approved by the board.
SECTION 30.  Section 41-29-133, Mississippi Code of 1972, is amended as follows:

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

SECTION 31.  Section 41-29-157, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The property sought may, and, if such notice
is given, will be easily and quickly destroyed or disposed of; or
(B) The giving of such notice will immediately
endanger the life or safety of the executing officer or another
person; and

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

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

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

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

SECTION 32. Section 41-29-159, Mississippi Code of 1972, is
amended as follows:

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

(1) Carry firearms;
(2) Execute and serve search warrants, arrest warrants, subpoenaes, and summonses issued under the authority of this state;
(3) Make arrests without warrant for any offense under this article committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a crime; and
(4) Make seizures of property pursuant to this article.

(b) As divided among the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners and the State Board of Optometry, the primary responsibility of the illicit street traffic or other illicit traffic of drugs is delegated to agents of the Mississippi Bureau of Narcotics. The State Board of Pharmacy is delegated the responsibility of regulating and checking the legitimate drug traffic among pharmacists, pharmacies, hospitals, nursing homes, drug manufacturers, and any other related professions and facilities with the exception of the medical, dental, optometric and veterinary professions. The State Board of Medical Licensure is responsible for regulating and checking the legitimate drug traffic among nurses, physicians, podiatrists and veterinarians. The Mississippi Board of Dental Examiners is responsible for regulating and checking the legitimate drug traffic among dentists and dental hygienists. The State Board of Optometry is responsible for regulating and checking the legitimate drug traffic among optometrists.

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

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

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

SECTION 33. Section 41-29-167, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

SECTION 34. Section 41-29-171, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(C) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances;
(3) Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

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

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

SECTION 35. This act shall take effect and be in force from and after July 1, 2001.