

By: Senator(s) White (5th)

To: Public Health and Welfare

SENATE BILL NO. 2554

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, 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND
21 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE
22 BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND CHECKING THE
23 LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; TO AMEND SECTION
24 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC
25 REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE STATE BOARD
26 OF OPTOMETRY; AND FOR 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

130 (n) "Drug" means (1) a substance recognized as a drug
131 in the official United States Pharmacopoeia, official Homeopathic
132 Pharmacopoeia of the United States, or official National
133 Formulary, or any supplement to any of them; (2) a substance
134 intended for use in the diagnosis, cure, mitigation, treatment, or
135 prevention of disease in man or animals; (3) a substance (other

136 than food) intended to affect the structure or any function of the
137 body of man or animals; and (4) a substance intended for use as a
138 component of any article specified in this paragraph. Such word
139 does not include devices or their components, parts, or
140 accessories.

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

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

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

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

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

166 (r) "Marihuana" means all parts of the plant of the
167 genus Cannabis and all species thereof, whether growing or not,
168 the seeds thereof, and every compound, manufacture, salt,

169 derivative, mixture or preparation of the plant or its seeds,
170 excluding hashish.

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

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

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

181 (3) Opium poppy and poppy straw; and

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

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

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

198 (v) "Paraphernalia" means all equipment, products and
199 materials of any kind which are used, intended for use, or
200 designed for use, in planting, propagating, cultivating, growing,
201 harvesting, manufacturing, compounding, converting, producing,

202 processing, preparing, testing, analyzing, packaging, repackaging,
203 storing, containing, concealing, injecting, ingesting, inhaling or
204 otherwise introducing into the human body a controlled substance
205 in violation of the Uniform Controlled Substances Law. It
206 includes, but is not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

244 1. Metal, wooden, acrylic, glass, stone,
245 plastic or ceramic pipes with or without screens, permanent
246 screens, hashish heads or punctured metal bowls;

247 2. Water pipes;

248 3. Carburetion tubes and devices;

249 4. Smoking and carburetion masks;

250 5. Roach clips, meaning objects used to hold
251 burning material, such as a marihuana cigarette, that has become
252 too small or too short to be held in the hand;

253 6. Miniature cocaine spoons and cocaine
254 vials;

255 7. Chamber pipes;

256 8. Carburetor pipes;

257 9. Electric pipes;

258 10. Air-driven pipes;

259 11. Chillums;

260 12. Bongs; and

261 13. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

302 (xiv) Expert testimony concerning its use.

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

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

308 (y) "Practitioner" means:

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

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

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

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

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

331 (cc) "Ultimate user" means a person who lawfully
332 possesses a controlled substance for his own use or for the use of

333 a member of his household or for administering to an animal owned
334 by him or by a member of his household.

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

337 41-29-137. (a) Except when dispensed directly by a
338 practitioner, other than a pharmacy, to an ultimate user, no
339 controlled substance in Schedule II, as set out in Section
340 41-29-115, may be dispensed without the written prescription of a
341 practitioner. A practitioner shall keep a record of all
342 controlled substances in Schedule I, II and III administered,
343 dispensed or professionally used by him otherwise than by
344 prescription.

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

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

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

364 (d) An optometrist certified to prescribe and use
365 therapeutic pharmaceutical agents under Sections 73-19-153 through

366 73-19-165 shall not be authorized to prescribe, administer,
367 dispense or use any controlled substance in Schedule I or II.

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

370 41-29-109. The Mississippi Bureau of Narcotics shall have
371 the full cooperation and use of facilities and personnel of the
372 State Board of Pharmacy, the State Board of Medical Licensure, the
373 State Board of Dental Examiners, the State Board of Optometry, the
374 district and county attorneys, and of the Attorney General's
375 office.

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

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

383 41-29-133. Persons registered to manufacture, distribute, or
384 dispense controlled substances under this article shall keep
385 records and maintain inventories in conformance with the
386 record-keeping and inventory requirements of federal law and with
387 any additional rules that the State Board of Pharmacy, State Board
388 of Medical Licensure, State Board of Dental Examiners or State
389 Board of Optometry may issue.

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

392 41-29-157. (a) Issuance and execution of administrative
393 inspection warrants and search warrants shall be as follows,
394 except as provided in subsection (c) of this section:

395 (1) A judge of any state court of record, or any
396 justice court judge within his jurisdiction, and upon proper oath
397 or affirmation showing probable cause, may issue warrants for the
398 purpose of conducting administrative inspections authorized by

399 this article or rules thereunder, and seizures of property
400 appropriate to the inspections. For purposes of the issuance of
401 administrative inspection warrants, probable cause exists upon
402 showing a valid public interest in the effective enforcement of
403 this article or rules thereunder, sufficient to justify
404 administrative inspection of the area, premises, building or
405 conveyance in the circumstances specified in the application for
406 the warrant. All such warrants shall be served during normal
407 business hours;

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

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

420 (B) Be directed to a person authorized by Section
421 41-29-159 to execute it;

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

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

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

430 (3) A warrant issued pursuant to this section must be
431 executed and returned within ten (10) days of its date unless,

432 upon a showing of a need for additional time, the court orders
433 otherwise. If property is seized pursuant to a warrant, a copy
434 shall be given to the person from whom or from whose premises the
435 property is taken, together with a receipt for the property taken.
436 The return of the warrant shall be made promptly, accompanied by a
437 written inventory of any property taken. The inventory shall be
438 made in the presence of the person executing the warrant and of
439 the person from whose possession or premises the property was
440 taken, if present, or in the presence of at least one (1) credible
441 person other than the person executing the warrant. A copy of the
442 inventory shall be delivered to the person from whom or from whose
443 premises the property was taken and to the applicant for the
444 warrant;

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

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

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

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

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

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

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

478 (A) Inspect and copy records required by this
479 article to be kept;

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

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

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

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

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

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

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

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

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

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

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

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

521 (B) The giving of such notice will immediately
522 endanger the life or safety of the executing officer or another
523 person; and

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

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

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

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

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

543 41-29-159. (a) Any officer or employee of the bureau,
544 investigative unit of the State Board of Pharmacy, investigative
545 unit of the State Board of Medical Licensure, investigative unit
546 of the State Board of Dental Examiners, investigative unit of the
547 State Board of Optometry, any duly sworn peace officer of the
548 State of Mississippi, any enforcement officer of the Mississippi
549 Department of Transportation, or any highway patrolman, may, while
550 engaged in the performance of his statutory duties:

551 (1) Carry firearms;

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

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

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

559 (b) As divided among the Mississippi Bureau of Narcotics,
560 the State Board of Pharmacy, the State Board of Medical Licensure,
561 the State Board of Dental Examiners and the State Board of
562 Optometry, the primary responsibility of the illicit street

563 traffic or other illicit traffic of drugs is delegated to agents
564 of the Mississippi Bureau of Narcotics. The State Board of
565 Pharmacy is delegated the responsibility of regulating and
566 checking the legitimate drug traffic among pharmacists,
567 pharmacies, hospitals, nursing homes, drug manufacturers, and any
568 other related professions and facilities with the exception of the
569 medical, dental, optometric and veterinary professions. The State
570 Board of Medical Licensure is responsible for regulating and
571 checking the legitimate drug traffic among nurses, physicians,
572 podiatrists and veterinarians. The Mississippi Board of Dental
573 Examiners is responsible for regulating and checking the
574 legitimate drug traffic among dentists and dental hygienists. The
575 State Board of Optometry is responsible for regulating and
576 checking the legitimate drug traffic among optometrists.

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

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

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

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

594 41-29-167. (a) The State Board of Medical Licensure, the
595 Mississippi Bureau of Narcotics, the State Board of

596 Pharmacy, * * * the State Board of Dental Examiners and the State
597 Board of Optometry shall cooperate with federal and other state
598 agencies in discharging their responsibilities concerning traffic
599 in controlled substances and in suppressing the abuse of
600 controlled substances. To this end, they may:

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

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

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

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

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

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

626 41-29-171. (a) The Mississippi Bureau of Narcotics, the
627 State Board of Pharmacy, the State Board of Medical Licensure, the
628 State Board of Dental Examiners and the State Board of Optometry

629 shall encourage research on misuse and abuse of controlled
630 substances. In connection with the research, and in furtherance
631 of the enforcement of this article they may:

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

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

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

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

641 (C) Improve methods for preventing, predicting,
642 understanding and dealing with the misuse and abuse of controlled
643 substances;

644 (3) Enter into contracts with public agencies,
645 institutions of higher education, and private organizations or
646 individuals for the purpose of conducting research,
647 demonstrations, or special projects which bear directly on misuse
648 and abuse of controlled substances.

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

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

657 SECTION 12. Section 73-19-31, Mississippi Code of 1972, is
658 amended as follows:

659 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33
660 through 73-19-45, which create the Mississippi Board of Optometry

661 and prescribe its duties and powers, shall stand repealed as of
662 July 1, 2011.

663 SECTION 13. This act shall take effect and be in force from
664 and after June 30, 2001.