

By: Senator(s) Minor

To: Public Health and Welfare

SENATE BILL NO. 2648

1 AN ACT TO AMEND SECTION 73-19-1, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY THE DEFINITION OF THE PRACTICE OF OPTOMETRY; TO AMEND  
3 SECTION 73-19-157, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
4 OPTOMETRISTS WHO HAVE BEEN CERTIFIED TO PRESCRIBE AND USE  
5 THERAPEUTIC PHARMACEUTICAL AGENTS TO ADMINISTER AND PRESCRIBE ANY  
6 PHARMACEUTICAL AGENTS RATIONAL TO THE EXAMINATION, DIAGNOSIS,  
7 MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE; TO  
8 AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PERFORM PRIMARY EYE CARE  
9 PROCEDURES RATIONAL TO THE MANAGEMENT OR TREATMENT OF CONDITIONS  
10 OR DISEASES OF THE EYE; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS  
11 TO PERFORM OR ORDER PROCEDURES AND LABORATORY TESTS RATIONAL TO  
12 THE DIAGNOSIS OF CONDITIONS OR DISEASES OF THE EYE; TO AMEND  
13 SECTION 73-19-165, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
14 PRECEDING SECTION; TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF  
15 1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS AS "PRACTITIONERS"  
16 UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO AMEND SECTION  
17 41-29-137, MISSISSIPPI CODE OF 1972, TO PROHIBIT THOSE CERTIFIED  
18 OPTOMETRISTS FROM PRESCRIBING, ADMINISTERING, DISPENSING OR USING  
19 ANY CONTROLLED SUBSTANCE IN SCHEDULE I OR II; TO AMEND SECTIONS  
20 41-29-109, 41-29-125, 41-29-133, 41-29-157, 41-29-159, 41-29-167  
21 AND 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE  
22 BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED  
23 OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT  
24 THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND  
25 CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; TO AMEND  
26 SECTION 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE  
27 AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE  
28 STATE BOARD OF OPTOMETRY; AND FOR RELATED PURPOSES.

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

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

32 73-19-1. The practice of optometry is defined to be the  
33 application of optical principles, through technical methods and  
34 devices in the examination of human eyes for the purpose of  
35 ascertaining departures from the normal, measuring their  
36 functional powers and adapting optical accessories for the aid  
37 thereof. The practice of optometry shall include the prescribing  
38 and use of therapeutic pharmaceutical agents by optometrists

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

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

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

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

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

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

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

72 \* \* \*

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

75 73-19-165. Any pharmacist licensed under the laws of the  
76 State of Mississippi is authorized to fill and dispense \* \* \*  
77 therapeutic pharmaceutical agents to patients \* \* \* for any  
78 optometrist certified by the State Board of Optometry to use such  
79 agents.

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

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

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

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

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

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

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

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

105 (e) "Commissioner" means the Commissioner of the  
106 Department of Public Safety.

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

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

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

121 (i) "Director" means the Director of the Bureau of  
122 Narcotics.

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

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

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

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

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

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

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

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

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

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

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

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

171 derivative, mixture or preparation of the plant or its seeds,  
172 excluding hashish.

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

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

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

183 (3) Opium poppy and poppy straw; and

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

190 (t) "Opiate" means any substance having an  
191 addiction-forming or addiction-sustaining liability similar to  
192 morphine or being capable of conversion into a drug having  
193 addiction-forming or addiction-sustaining liability. It does not  
194 include, unless specifically designated as controlled under  
195 Section 41-29-111, the dextrorotatory isomer of  
196 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such  
197 word does include its racemic and levorotatory forms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

249 2. Water pipes;

250 3. Carburetion tubes and devices;

251 4. Smoking and carburetion masks;

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

255 6. Miniature cocaine spoons and cocaine  
256 vials;

257 7. Chamber pipes;

258 8. Carburetor pipes;

259 9. Electric pipes;

260 10. Air-driven pipes;

261 11. Chillums;

262 12. Bongs; and

263 13. Ice pipes or chillers.

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

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



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

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

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

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

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

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

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

291 (ix) National and local advertising concerning its  
292 use;

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

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

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

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

304 (xiv) Expert testimony concerning its use.

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

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

310 (y) "Practitioner" means:

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

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

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

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

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

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

335 a member of his household or for administering to an animal owned  
336 by him or by a member of his household.

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

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

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

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

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

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

368 73-19-165 shall not be authorized to prescribe, administer,  
369 dispense or use any controlled substance in Schedule I or II.

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

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

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

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

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

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

399 (b) Persons registered by the State Board of Pharmacy,  
400 with the consent of the United States Drug Enforcement

401 Administration and the State Board of Medical Licensure, State  
402 Board of Dental Examiners or State Board of Optometry, to  
403 manufacture, distribute, dispense or conduct research with  
404 controlled substances may possess, manufacture, distribute,  
405 dispense or conduct research with those substances to the extent  
406 authorized by their registration and in conformity with the other  
407 provisions of this article.

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

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

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

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

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

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

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

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

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

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

445 41-29-157. (a) Issuance and execution of administrative  
446 inspection warrants and search warrants shall be as follows,  
447 except as provided in subsection (c) of this section:

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

461 (2) A search warrant shall issue only upon an affidavit  
462 of a person having knowledge or information of the facts alleged,  
463 sworn to before the judge or justice court judge and establishing  
464 the grounds for issuing the warrant. If the judge or justice  
465 court judge is satisfied that grounds for the application exist or  
466 that there is probable cause to believe they exist, he shall issue

467 a warrant identifying the area, premises, building or conveyance  
468 to be searched, the purpose of the search, and, if appropriate,  
469 the type of property to be searched, if any. The warrant shall:

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

473 (B) Be directed to a person authorized by Section  
474 41-29-159 to execute it;

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

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

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

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

498 (4) The judge or justice court judge who has issued a  
499 warrant shall attach thereto a copy of the return and all papers

500 returnable in connection therewith and file them with the clerk of  
501 the appropriate state court for the judicial district in which the  
502 inspection was made.

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

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

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

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

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

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

531 (A) Inspect and copy records required by this  
532 article to be kept;



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

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

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

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

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

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

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

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

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

564                   (c) Any agent of the bureau authorized to execute a search  
565 warrant involving controlled substances, the penalty for which is

566 imprisonment for more than one (1) year, may, without notice of  
567 his authority and purpose, break open an outer door or inner door,  
568 or window of a building, or any part of the building, if the judge  
569 issuing the warrant:

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

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

574                   (B) The giving of such notice will immediately  
575 endanger the life or safety of the executing officer or another  
576 person; and

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

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

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

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

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

596           41-29-159. (a) Any officer or employee of the bureau,  
597 investigative unit of the State Board of Pharmacy, investigative  
598 unit of the State Board of Medical Licensure, investigative unit

599 of the State Board of Dental Examiners, investigative unit of the  
600 State Board of Optometry, any duly sworn peace officer of the  
601 State of Mississippi, any enforcement officer of the Mississippi  
602 Department of Transportation, or any highway patrolman, may, while  
603 engaged in the performance of his statutory duties:

604 (1) Carry firearms;

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

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

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

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

630 (c) The provisions of this section shall not be construed to  
631 limit or preclude the detection or arrest of persons in violation

632 of Section 41-29-139 by any local law enforcement officer,  
633 sheriff, deputy sheriff or peace officer.

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

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

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

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

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

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

660 (3) Cooperate with the United States Drug Enforcement  
661 Administration by establishing a centralized unit to accept,  
662 catalogue, file and collect statistics, including records of drug  
663 dependent persons and other controlled substance law offenders

664 within the state, and make the information available for federal,  
665 state and local law enforcement purposes; and

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

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

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

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

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

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

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

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

694 (C) Improve methods for preventing, predicting,  
695 understanding and dealing with the misuse and abuse of controlled  
696 substances;

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

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

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

710           SECTION 13. Section 73-19-31, Mississippi Code of 1972, is  
711 amended as follows:

712           73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33  
713 through 73-19-45, which create the Mississippi Board of Optometry  
714 and prescribe its duties and powers, shall stand repealed as of  
715 July 1, 2011.

716           SECTION 14. This act shall take effect and be in force from  
717 and after June 30, 2001.