

By: Senator(s) Minor

To: Public Health and Welfare

SENATE BILL NO. 2648
(As Passed the Senate)

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 ADMINISTER
 5 CERTAIN PHARMACEUTICAL AGENTS; TO AUTHORIZE OPTOMETRISTS WHO HAVE
 6 BEEN CERTIFIED TO PERFORM PRIMARY EYE CARE PROCEDURES INCLUDING
 7 CERTAIN CODES OF THE AMERICAN MEDICAL ASSOCIATION; TO PROVIDE THAT
 8 THERAPEUTICALLY CERTIFIED OPTOMETRISTS SHALL BE HELD TO THE SAME
 9 STANDARDS OF CARE AS PHYSICIANS AND DENTISTS; TO REQUIRE
 10 THERAPEUTICALLY CERTIFIED OPTOMETRISTS TO PROVIDE 24-HOUR
 11 COVERAGE; TO AMEND SECTION 73-19-165, MISSISSIPPI CODE OF 1972, IN
 12 CONFORMITY TO THE PRECEDING SECTION; TO AMEND SECTION 41-29-105,
 13 MISSISSIPPI CODE OF 1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS
 14 AS "PRACTITIONERS" UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO
 15 AMEND SECTION 41-29-137, MISSISSIPPI CODE OF 1972, TO PROHIBIT
 16 THOSE CERTIFIED OPTOMETRISTS FROM PRESCRIBING, ADMINISTERING,
 17 DISPENSING OR USING ANY CONTROLLED SUBSTANCE IN SCHEDULE I OR II;
 18 TO AMEND SECTIONS 41-29-109, 41-29-157, 41-29-159, 41-29-167 AND
 19 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE
 20 BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED
 21 OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT
 22 THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND
 23 CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; TO AMEND
 24 SECTION 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE
 25 AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE
 26 STATE BOARD 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 as provided below:

54 (a) The administration and prescribing of
55 pharmaceutical agents as listed in the Optometric Formulary as
56 determined by the State Board of Optometry, which shall consist of
57 all topical medications authorized for prescription by
58 optometrists prior to the effective date of this act, controlled
59 substances listed in Schedules III, IV and V of the Uniform
60 Controlled Substances Act, and shall specifically include the
61 authority to administer benadryl, epinephrine or equivalent
62 medication to counteract anaphylaxis or anaphylactic reaction.
63 Additions to the Optometric Formulary shall be proposed by the
64 State Board of Optometry and shall be submitted for approval to a
65 formulary board consisting of the Chairman of the State Board of
66 Optometry, the Chairman of the Mississippi State Medical Licensure
67 Board and the Chairman of the State Board of Pharmacy, who shall
68 serve as chairman of the formulary board. An affirmative vote of
69 two (2) members of the board shall be necessary to add
70 pharmaceutical agents to the Optometric Formulary. The formulary

71 board shall meet twice annually: in the month of January and in
72 the month of July, beginning in July 2001. The members of the
73 board shall serve for three (3) years and shall receive no
74 remuneration;

75 (b) The performance of primary eye care procedures
76 rational to the management or treatment of visual defects and
77 abnormal conditions or diseases of the eye or adjacent structures.
78 These procedures shall include the following codes as listed in
79 the 2001 Current Procedural Terminology Manual of the American
80 Medical Association: 65205 (removal of foreign body, external
81 eye, conjunctiva superficial); 65210 (conjunctival embedded
82 (includes concretions), subconjunctival or scleral
83 nonperforating); 65220 (corneal without slit lamp); 65222
84 (corneal, with slit lamp); 67820 (correction of trichiasis,
85 epilation by forceps only); 68040 (expression of conjunctival
86 follicles (eg. for trachoma); 68761 (closure of lacrimal punctum
87 by plug); 68808 (dilation of lacrimal puncture with or without
88 irrigation); and 68840 (probing of lacrimal canaliculi, with or
89 without irrigation); and may include additional procedures not
90 invasive to the eyes or adjacent structures as determined by the
91 State Board of Optometry which do not require the use of a local
92 anesthetic or closure by suturing;

93 (c) Therapeutically certified optometrists shall be
94 held to the same standards of care and standards of record keeping
95 as physicians and dentists;

96 (d) The State Board of Optometry shall develop policies
97 requiring therapeutically certified optometrists to provide,
98 either personally or through coverage arrangements with other
99 optometrists or physicians, after hour, weekend and holiday
100 coverage.

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

103 73-19-165. Any pharmacist licensed under the laws of the
104 State of Mississippi is authorized to fill and dispense * * *
105 therapeutic pharmaceutical agents to patients * * * for any
106 optometrist certified by the State Board of Optometry to use such
107 agents.

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

110 41-29-105. The following words and phrases, as used in this
111 article, shall have the following meanings, unless the context
112 otherwise requires:

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

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

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

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

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

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

133 (e) "Commissioner" means the Commissioner of the
134 Department of Public Safety.

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

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

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

149 (i) "Director" means the Director of the Bureau of
150 Narcotics.

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

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

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

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

160 (n) "Drug" means (1) a substance recognized as a drug
161 in the official United States Pharmacopoeia, official Homeopathic
162 Pharmacopoeia of the United States, or official National
163 Formulary, or any supplement to any of them; (2) a substance
164 intended for use in the diagnosis, cure, mitigation, treatment, or
165 prevention of disease in man or animals; (3) a substance (other
166 than food) intended to affect the structure or any function of the
167 body of man or animals; and (4) a substance intended for use as a

168 component of any article specified in this paragraph. Such word
169 does not include devices or their components, parts, or
170 accessories.

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

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

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

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

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

196 (r) "Marihuana" means all parts of the plant of the
197 genus Cannabis and all species thereof, whether growing or not,
198 the seeds thereof, and every compound, manufacture, salt,
199 derivative, mixture or preparation of the plant or its seeds,
200 excluding hashish.

201 (s) "Narcotic drug" means any of the following, whether
202 produced directly or indirectly by extraction from substances of
203 vegetable origin, or independently by means of chemical synthesis,
204 or by a combination of extraction and chemical synthesis:

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

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

211 (3) Opium poppy and poppy straw; and

212 (4) Cocaine, coca leaves and any salt, compound,
213 derivative or preparation of cocaine, coca leaves, and any salt,
214 compound, isomer, derivative or preparation thereof which is
215 chemically equivalent or identical with any of these substances,
216 but not including decocainized coca leaves or extractions of coca
217 leaves which do not contain cocaine or ecgonine.

218 (t) "Opiate" means any substance having an
219 addiction-forming or addiction-sustaining liability similar to
220 morphine or being capable of conversion into a drug having
221 addiction-forming or addiction-sustaining liability. It does not
222 include, unless specifically designated as controlled under
223 Section 41-29-111, the dextrorotatory isomer of
224 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
225 Such word does include its racemic and levorotatory forms.

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

228 (v) "Paraphernalia" means all equipment, products and
229 materials of any kind which are used, intended for use, or
230 designed for use, in planting, propagating, cultivating, growing,
231 harvesting, manufacturing, compounding, converting, producing,
232 processing, preparing, testing, analyzing, packaging, repackaging,
233 storing, containing, concealing, injecting, ingesting, inhaling or

234 otherwise introducing into the human body a controlled substance
235 in violation of the Uniform Controlled Substances Law. It
236 includes, but is not limited to:

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

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

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

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

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

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

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

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

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

265 (x) Containers and other objects used, intended
266 for use or designed for use in storing or concealing controlled
267 substances;

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

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

274 1. Metal, wooden, acrylic, glass, stone,
275 plastic or ceramic pipes with or without screens, permanent
276 screens, hashish heads or punctured metal bowls;

277 2. Water pipes;

278 3. Carburetion tubes and devices;

279 4. Smoking and carburetion masks;

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

283 6. Miniature cocaine spoons and cocaine
284 vials;

285 7. Chamber pipes;

286 8. Carburetor pipes;

287 9. Electric pipes;

288 10. Air-driven pipes;

289 11. Chillums;

290 12. Bongs; and

291 13. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

319 (ix) National and local advertising concerning its
320 use;

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

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

327 (xii) Direct or circumstantial evidence of the
328 ratio of sales of the object(s) to the total sales of the business
329 enterprise;

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

332 (xiv) Expert testimony concerning its use.

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

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

338 (y) "Practitioner" means:

339 (1) A physician, dentist, veterinarian, scientific
340 investigator or optometrist certified to prescribe and use
341 therapeutic pharmaceutical agents under Sections 73-19-153 through
342 73-19-165, or other person licensed, registered or otherwise
343 permitted to distribute, dispense, conduct research with respect
344 to or to administer a controlled substance in the course of
345 professional practice or research in this state; and

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

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

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

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

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

363 a member of his household or for administering to an animal owned
364 by him or by a member of his household.

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

367 41-29-137. (a) Except when dispensed directly by a
368 practitioner, other than a pharmacy, to an ultimate user, no
369 controlled substance in Schedule II, as set out in Section
370 41-29-115, may be dispensed without the written prescription of a
371 practitioner. A practitioner shall keep a record of all
372 controlled substances in Schedule I, II and III administered,
373 dispensed or professionally used by him otherwise than by
374 prescription.

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

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

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

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

396 73-19-165 shall not be authorized to prescribe, administer,
397 dispense or use any controlled substance in Schedule I or II.

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

400 41-29-109. The Mississippi Bureau of Narcotics shall have
401 the full cooperation and use of facilities and personnel of the
402 State Board of Pharmacy, the State Board of Medical Licensure, the
403 State Board of Dental Examiners, the State Board of Optometry, the
404 district and county attorneys, and of the Attorney General's
405 office.

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

411 SECTION 7. Section 41-29-157, Mississippi Code of 1972, is
412 amended as follows:

413 41-29-157. (a) Issuance and execution of administrative
414 inspection warrants and search warrants shall be as follows,
415 except as provided in subsection (c) of this section:

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

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

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

441 (B) Be directed to a person authorized by Section
442 41-29-159 to execute it;

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

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

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

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

462 person other than the person executing the warrant. A copy of the
463 inventory shall be delivered to the person from whom or from whose
464 premises the property was taken and to the applicant for the
465 warrant;

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

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

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

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

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

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

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

499 (A) Inspect and copy records required by this
500 article to be kept;

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

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

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

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

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

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

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

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

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

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

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

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

542 (B) The giving of such notice will immediately
543 endanger the life or safety of the executing officer or another
544 person; and

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

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

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

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

562 SECTION 8. Section 41-29-159, Mississippi Code of 1972, is
563 amended as follows:

564 41-29-159. (a) Any officer or employee of the bureau,
565 investigative unit of the State Board of Pharmacy, investigative
566 unit of the State Board of Medical Licensure, investigative unit
567 of the State Board of Dental Examiners, investigative unit of the
568 State Board of Optometry, any duly sworn peace officer of the
569 State of Mississippi, any enforcement officer of the Mississippi
570 Department of Transportation, or any highway patrolman, may, while
571 engaged in the performance of his statutory duties:

572 (1) Carry firearms;

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

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

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

580 (b) As divided among the Mississippi Bureau of Narcotics,
581 the State Board of Pharmacy, the State Board of Medical Licensure,
582 the State Board of Dental Examiners and the State Board of
583 Optometry, the primary responsibility of the illicit street
584 traffic or other illicit traffic of drugs is delegated to agents
585 of the Mississippi Bureau of Narcotics. The State Board of
586 Pharmacy is delegated the responsibility of regulating and
587 checking the legitimate drug traffic among pharmacists,
588 pharmacies, hospitals, nursing homes, drug manufacturers, and any
589 other related professions and facilities with the exception of the
590 medical, dental, optometric and veterinary professions. The State

591 Board of Medical Licensure is responsible for regulating and
592 checking the legitimate drug traffic among nurses, physicians,
593 podiatrists and veterinarians. The Mississippi Board of Dental
594 Examiners is responsible for regulating and checking the
595 legitimate drug traffic among dentists and dental hygienists. The
596 State Board of Optometry is responsible for regulating and
597 checking the legitimate drug traffic among optometrists.

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

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

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

613 SECTION 9. Section 41-29-167, Mississippi Code of 1972, is
614 amended as follows:

615 41-29-167. (a) The State Board of Medical Licensure, the
616 Mississippi Bureau of Narcotics, the State Board of
617 Pharmacy, * * * the State Board of Dental Examiners and the State
618 Board of Optometry shall cooperate with federal and other state
619 agencies in discharging their responsibilities concerning traffic
620 in controlled substances and in suppressing the abuse of
621 controlled substances. To this end, they may:

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

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

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

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

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

645 SECTION 10. Section 41-29-171, Mississippi Code of 1972, is
646 amended as follows:

647 41-29-171. (a) The Mississippi Bureau of Narcotics, the
648 State Board of Pharmacy, the State Board of Medical Licensure, the
649 State Board of Dental Examiners and the State Board of Optometry
650 shall encourage research on misuse and abuse of controlled
651 substances. In connection with the research, and in furtherance
652 of the enforcement of this article they may:

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

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

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

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

662 (C) Improve methods for preventing, predicting,
663 understanding and dealing with the misuse and abuse of controlled
664 substances;

665 (3) Enter into contracts with public agencies,
666 institutions of higher education, and private organizations or
667 individuals for the purpose of conducting research,
668 demonstrations, or special projects which bear directly on misuse
669 and abuse of controlled substances.

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

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

678 SECTION 11. Section 73-19-31, Mississippi Code of 1972, is
679 amended as follows:

680 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33
681 through 73-19-45, which create the Mississippi Board of Optometry
682 and prescribe its duties and powers, and Section 73-19-157,
683 Mississippi Code of 1972, which authorizes optometrists who have
684 been certified to prescribe and administer certain pharmaceutical

685 agents and performed certain primary eye care procedures, shall
686 stand repealed as of July 1, 2005.

687 SECTION 12. This act shall take effect and be in force from
688 and after June 30, 2001.