

By: Representative Guice

To: Public Health and Welfare

HOUSE BILL NO. 1209

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 AUTHORIZE THOSE CERTIFIED
 18 OPTOMETRISTS TO PRESCRIBE OR ADMINISTER ANY CONTROLLED SUBSTANCE
 19 IN SCHEDULE III, IV OR V; TO AMEND SECTIONS 41-29-109, 41-29-125,
 20 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND 41-29-171,
 21 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE BOARD OF
 22 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 or prescribing optical accessories
 37 including spectacles, contact lenses and low-vision devices for
 38 the aid thereof including, but not limited to, the use of
 39 computerized or automated refracting devices, lenses and prisms,
 40 vision therapy and low-vision rehabilitation therapy. Under the



41 direction or supervision of a licensed optometrist, a licensed
42 professional nurse, licensed nurse practitioner, licensed
43 practical nurse, licensed physical therapist and licensed
44 occupational therapist may assist in the provision of vision
45 therapy or low-vision rehabilitation services in addition to such
46 other services that the licensed professional nurse, licensed
47 nurse practitioner, licensed practical nurse, licensed physical
48 therapist and licensed occupational therapist is authorized by law
49 to provide. The practice of optometry shall include the
50 prescribing and use of therapeutic pharmaceutical agents by
51 optometrists certified under Sections 73-19-153 through 73-19-165.
52 The practice of optometry shall not include the performing of
53 injections into the eyeball, cataract surgery or laser surgery,
54 but shall not preclude the removal of superficial foreign bodies
55 from the eye or other noninvasive procedures. Nothing in this
56 section or any other provision of law shall be construed to
57 prohibit optometrists who have been certified under Sections
58 73-19-153 through 73-19-165 from providing postophthalmic surgical
59 or clinical care and management with the advice and consultation
60 of the operating or treating physician.

61 **SECTION 2.** Section 73-19-157, Mississippi Code of 1972, is
62 amended as follows:

63 73-19-157. * * * Any optometrist certified to prescribe and
64 use therapeutic pharmaceutical agents under Sections 73-19-153
65 through 73-19-165 is authorized to examine, diagnose, manage and
66 treat visual defects, abnormal conditions and diseases of the
67 human eye and adjacent structures including:

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



73 (b) The performance of primary eye care procedures
74 rational to the management or treatment of visual defects,
75 abnormal conditions or diseases of the eye or adjacent structures
76 as determined by the State Board of Optometry, in annual
77 consultation with at least three (3) colleges of optometry with
78 regard to the current level of instruction in optometric practice.
79 "Primary eye care procedures," for the purposes of this paragraph,
80 means in-office procedures that do not require more than a local
81 anesthesia, closure by suturing, or the administration of
82 treatment directly into the eyeball, i.e. intraocular injections;

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

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

90 * * *

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

93 73-19-165. Any pharmacist licensed under the laws of the
94 State of Mississippi is authorized to fill and dispense * * *
95 therapeutic pharmaceutical agents to patients for any optometrist
96 certified by the State Board of Optometry to use such agents.

97 **SECTION 4.** Section 41-29-105, Mississippi Code of 1972, is
98 amended as follows:

99 41-29-105. The following words and phrases, as used in this
100 article, shall have the following meanings, unless the context
101 otherwise requires:

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



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

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

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

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

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

122 (e) "Commissioner" means the Commissioner of the
123 Department of Public Safety.

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

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

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



138 (i) "Director" means the Director of the Bureau of
139 Narcotics.

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

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

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

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

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

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

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

169 (q) "Manufacture" means the production, preparation,
170 propagation, compounding, conversion or processing of a controlled



171 substance, either directly or indirectly, by extraction from
172 substances of natural origin, or independently by means of
173 chemical synthesis, or by a combination of extraction and chemical
174 synthesis, and includes any packaging or repackaging of the
175 substance or labeling or relabeling of its container. The term
176 "manufacture" does not include the preparation, compounding,
177 packaging or labeling of a controlled substance in conformity with
178 applicable state and local law:

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

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

185 (r) "Marihuana" means all parts of the plant of the
186 genus Cannabis and all species thereof, whether growing or not,
187 the seeds thereof, and every compound, manufacture, salt,
188 derivative, mixture or preparation of the plant or its seeds,
189 excluding hashish.

190 (s) "Narcotic drug" means any of the following, whether
191 produced directly or indirectly by extraction from substances of
192 vegetable origin, or independently by means of chemical synthesis,
193 or by a combination of extraction and chemical synthesis:

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

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

200 (3) Opium poppy and poppy straw; and

201 (4) Cocaine, coca leaves and any salt, compound,
202 derivative or preparation of cocaine, coca leaves, and any salt,
203 compound, isomer, derivative or preparation thereof which is



204 chemically equivalent or identical with any of these substances,
205 but not including decocainized coca leaves or extractions of coca
206 leaves which do not contain cocaine or ecgonine.

207 (t) "Opiate" means any substance having an
208 addiction-forming or addiction-sustaining liability similar to
209 morphine or being capable of conversion into a drug having
210 addiction-forming or addiction-sustaining liability. It does not
211 include, unless specifically designated as controlled under
212 Section 41-29-111, the dextrorotatory isomer of
213 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
214 Such word does include its racemic and levorotatory forms.

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

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

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

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

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



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

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

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

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

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

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

254 (x) Containers and other objects used, intended
255 for use or designed for use in storing or concealing controlled
256 substances;

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

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

263 1. Metal, wooden, acrylic, glass, stone,
264 plastic or ceramic pipes with or without screens, permanent
265 screens, hashish heads or punctured metal bowls;

266 2. Water pipes;

267 3. Carburetion tubes and devices;

268 4. Smoking and carburetion masks;



- 269 5. Roach clips, meaning objects used to hold
270 burning material, such as a marihuana cigarette, that has become
271 too small or too short to be held in the hand;
- 272 6. Miniature cocaine spoons and cocaine
273 vials;
- 274 7. Chamber pipes;
- 275 8. Carburetor pipes;
- 276 9. Electric pipes;
- 277 10. Air-driven pipes;
- 278 11. Chillums;
- 279 12. Bonges; and
- 280 13. Ice pipes or chillers.

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

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

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

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

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

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

296 (vi) Direct or circumstantial evidence of the
297 intent of an owner, or of anyone in control of the object, to
298 deliver it to persons whom he knows, or should reasonably know,
299 intend to use the object to facilitate a violation of the Uniform
300 Controlled Substances Law; the innocence of an owner, or of anyone
301 in control of the object, as to a direct violation of the Uniform



302 Controlled Substances Law shall not prevent a finding that the
303 object is intended for use, or designed for use as paraphernalia;

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

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

308 (ix) National and local advertising concerning its
309 use;

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

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

316 (xii) Direct or circumstantial evidence of the
317 ratio of sales of the object(s) to the total sales of the business
318 enterprise;

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

321 (xiv) Expert testimony concerning its use.

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

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

327 (y) "Practitioner" means:

328 (1) A physician, dentist, veterinarian, scientific
329 investigator or optometrist certified to prescribe and use
330 therapeutic pharmaceutical agents under Sections 73-19-153 through
331 73-19-165, or other person licensed, registered or otherwise
332 permitted to distribute, dispense, conduct research with respect
333 to or to administer a controlled substance in the course of
334 professional practice or research in this state; and



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

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

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

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

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

354 **SECTION 5.** Section 41-29-137, Mississippi Code of 1972, is
355 amended as follows:

356 41-29-137. (a) Except when dispensed directly by a
357 practitioner, other than a pharmacy, to an ultimate user, no
358 controlled substance in Schedule II, as set out in Section
359 41-29-115, may be dispensed without the written prescription of a
360 practitioner. A practitioner shall keep a record of all
361 controlled substances in Schedule I, II and III administered,
362 dispensed or professionally used by him otherwise than by
363 prescription.

364 In emergency situations, as defined by rule of the State
365 Board of Pharmacy, * * * Schedule II drugs may be dispensed upon
366 oral prescription of a practitioner, reduced promptly to writing
367 and filed by the pharmacy. Prescriptions shall be retained in



368 conformity with the requirements of Section 41-29-133. No
369 prescription for a Schedule II substance may be refilled unless
370 renewed by prescription issued by a licensed medical doctor.

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

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

383 (d) An optometrist certified to prescribe and use
384 therapeutic pharmaceutical agents under Sections 73-19-153 through
385 73-19-165 shall be authorized to prescribe or administer any
386 controlled substance in Schedule II, III, IV or V.

387 **SECTION 6.** Section 41-29-109, Mississippi Code of 1972, is
388 amended as follows:

389 41-29-109. The Mississippi Bureau of Narcotics shall have
390 the full cooperation and use of facilities and personnel of the
391 State Board of Pharmacy, the State Board of Medical Licensure, the
392 State Board of Dental Examiners, the State Board of Optometry, the
393 district and county attorneys, and of the Attorney General's
394 office.

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



400 **SECTION 7.** Section 41-29-157, Mississippi Code of 1972, is
401 amended as follows:

402 41-29-157. (a) Issuance and execution of administrative
403 inspection warrants and search warrants shall be as follows,
404 except as provided in subsection (c) of this section:

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

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

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

430 (B) Be directed to a person authorized by Section
431 41-29-159 to execute it;



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

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

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

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

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

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



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

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

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

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

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

488 (A) Inspect and copy records required by this
489 article to be kept;

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



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

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

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

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

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

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

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

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

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

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



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

531 (B) The giving of such notice will immediately
532 endanger the life or safety of the executing officer or another
533 person; and

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

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

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

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

551 **SECTION 8.** Section 41-29-159, Mississippi Code of 1972, is
552 amended as follows:

553 41-29-159. (a) Any officer or employee of the * * *
554 bureau * * *, investigative unit of the State Board of Pharmacy,
555 investigative unit of the State Board of Medical Licensure,
556 investigative unit of the State Board of Dental Examiners,
557 investigative unit of the State Board of Optometry, any duly sworn
558 peace officer of the State of Mississippi, any enforcement officer
559 of the Mississippi Department of Transportation, or any highway
560 patrolman, may, while engaged in the performance of his statutory
561 duties:



562 (1) Carry firearms;

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

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

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

570 (b) As divided among the Mississippi Bureau of Narcotics,
571 the State Board of Pharmacy, the State Board of Medical Licensure,
572 the State Board of Dental Examiners and the State Board of
573 Optometry, the primary responsibility of the illicit street
574 traffic or other illicit traffic of drugs is delegated to agents
575 of the Mississippi Bureau of Narcotics. The State Board of
576 Pharmacy is delegated the responsibility of regulating and
577 checking the legitimate drug traffic among pharmacists,
578 pharmacies, hospitals, nursing homes, drug manufacturers, and any
579 other related professions and facilities with the exception of the
580 medical, dental, optometric and veterinary professions. The State
581 Board of Medical Licensure is responsible for regulating and
582 checking the legitimate drug traffic among nurses, physicians,
583 podiatrists and veterinarians. The Mississippi Board of Dental
584 Examiners is responsible for regulating and checking the
585 legitimate drug traffic among dentists and dental hygienists. The
586 State Board of Optometry is responsible for regulating and
587 checking the legitimate drug traffic among optometrists.

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

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



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

603 **SECTION 9.** Section 41-29-167, Mississippi Code of 1972, is
604 amended as follows:

605 41-29-167. (a) The State Board of Medical Licensure, the
606 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the
607 State Board of Dental Examiners and the State Board of Optometry
608 shall cooperate with federal and other state agencies in
609 discharging their responsibilities concerning traffic in
610 controlled substances and in suppressing the abuse of controlled
611 substances. To this end, they may:

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

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

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

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



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

635 **SECTION 10.** Section 41-29-171, Mississippi Code of 1972, is
636 amended as follows:

637 41-29-171. (a) The Mississippi Bureau of Narcotics, the
638 State Board of Pharmacy, the State Board of Medical Licensure, the
639 State Board of Dental Examiners and the State Board of Optometry
640 shall encourage research on misuse and abuse of controlled
641 substances. In connection with the research, and in furtherance
642 of the enforcement of this article they may:

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

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

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

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

652 (C) Improve methods for preventing, predicting,
653 understanding and dealing with the misuse and abuse of controlled
654 substances;

655 (3) Enter into contracts with public agencies,
656 institutions of higher education, and private organizations or
657 individuals for the purpose of conducting research,
658 demonstrations, or special projects which bear directly on misuse
659 and abuse of controlled substances.



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

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

668 **SECTION 11.** Section 73-19-31, Mississippi Code of 1972, is
669 amended as follows:

670 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33
671 through 73-19-45, which create the Mississippi Board of Optometry
672 and prescribe its duties and powers, shall stand repealed as of
673 July 1, 2012.

674 **SECTION 12.** This act shall take effect and be in force from
675 and after June 30, 2002.

