

By: Representative Guice

To: Public Health and  
Welfare

## HOUSE BILL NO. 668

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

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

62 73-19-157. \* \* \* Any optometrist certified to prescribe and  
63 use therapeutic pharmaceutical agents under Sections 73-19-153  
64 through 73-19-165 is authorized to examine, diagnose, manage and  
65 treat visual defects, abnormal conditions and diseases of the  
66 human eye and adjacent structures including:

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

72 (b) The performance of primary eye care procedures  
73 rational to the management or treatment of visual defects,



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

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

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

89 \* \* \*

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

92 73-19-165. Any pharmacist licensed under the laws of the  
93 State of Mississippi is authorized to fill and dispense \* \* \*  
94 therapeutic pharmaceutical agents to patients for any optometrist  
95 certified by the State Board of Optometry to use such agents.

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

98 41-29-105. The following words and phrases, as used in this  
99 article, shall have the following meanings, unless the context  
100 otherwise requires:

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

168           (q) "Manufacture" means the production, preparation,  
169 propagation, compounding, conversion or processing of a controlled  
170 substance, either directly or indirectly, by extraction from  
171 substances of natural origin, or independently by means of



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

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

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

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

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

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

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

199 (3) Opium poppy and poppy straw; and

200 (4) Cocaine, coca leaves and any salt, compound,  
201 derivative or preparation of cocaine, coca leaves, and any salt,  
202 compound, isomer, derivative or preparation thereof which is  
203 chemically equivalent or identical with any of these substances,



204 but not including decocainized coca leaves or extractions of coca  
205 leaves which do not contain cocaine or ecgonine.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

265 2. Water pipes;

266 3. Carburetion tubes and devices;

267 4. Smoking and carburetion masks;





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

271                   6. Miniature cocaine spoons and cocaine  
272 vials;

273                   7. Chamber pipes;

274                   8. Carburetor pipes;

275                   9. Electric pipes;

276                   10. Air-driven pipes;

277                   11. Chillums;

278                   12. Bongs; and

279                   13. Ice pipes or chillers.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

320 (xiv) Expert testimony concerning its use.

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

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

326 (y) "Practitioner" means:

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



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

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

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

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

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

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

355                   41-29-137. (a) Except when dispensed directly by a  
356 practitioner, other than a pharmacy, to an ultimate user, no  
357 controlled substance in Schedule II, as set out in Section  
358 41-29-115, may be dispensed without the written prescription of a  
359 practitioner. A practitioner shall keep a record of all  
360 controlled substances in Schedule I, II and III administered,  
361 dispensed or professionally used by him otherwise than by  
362 prescription.

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



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

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

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

382 (d) An optometrist certified to prescribe and use  
383 therapeutic pharmaceutical agents under Sections 73-19-153 through  
384 73-19-165 shall be authorized to prescribe or administer any  
385 controlled substance in Schedule III, IV or V. However, an  
386 optometrist shall not maintain, store or possess any controlled  
387 substances on the premises where the optometrist's practice is  
388 located.

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

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

397 It shall be the duty of all duly sworn peace officers of the  
398 State of Mississippi to enforce the provisions of this article  
399 with reference to illicit narcotic and drug traffic. The



400 provisions of this article may likewise be enforced by agents of  
401 the United States Drug Enforcement Administration.

402         **SECTION 7.** Section 41-29-125, Mississippi Code of 1972, is  
403 amended as follows:

404         41-29-125. The State Board of Pharmacy may promulgate rules  
405 and regulations relating to the registration and control of the  
406 manufacture, distribution and dispensing of controlled substances  
407 within this state.

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

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

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

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



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

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

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

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

448                   (f) The State Board of Pharmacy, the Mississippi Bureau  
449 of Narcotics, the State Board of Medical Licensure, the State  
450 Board of Dental Examiners, the Mississippi Board of Nursing and  
451 the State Board of Optometry may inspect the establishment of a  
452 registrant or applicant for registration in accordance with the  
453 regulations of these agencies as approved by the board.

454                   **SECTION 8.** Section 41-29-133, Mississippi Code of 1972, is  
455 amended as follows:

456                   41-29-133. Persons registered to manufacture, distribute, or  
457 dispense controlled substances under this article shall keep  
458 records and maintain inventories in conformance with the  
459 record-keeping and inventory requirements of federal law and with  
460 any additional rules the State Board of Pharmacy, the State Board  
461 of Medical Licensure, the State Board of Dental Examiners, the  
462 Mississippi Board of Nursing or the State Board of Optometry may  
463 issue.

464                   **SECTION 9.** Section 41-29-157, Mississippi Code of 1972, is  
465 amended as follows:



466 41-29-157. (a) Issuance and execution of administrative  
467 inspection warrants and search warrants shall be as follows,  
468 except as provided in subsection (c) of this section:

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

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

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

494 (B) Be directed to a person authorized by Section  
495 41-29-159 to execute it;

496 (C) Command the person to whom it is directed to  
497 inspect the area, premises, building or conveyance identified for



498 the purpose specified, and if appropriate, direct the seizure of  
499 the property specified;

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

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

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

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

524 (b) The Mississippi Bureau of Narcotics, the State Board of  
525 Pharmacy, the State Board of Medical Licensure, the State Board of  
526 Dental Examiners, the Mississippi Board of Nursing or the State  
527 Board of Optometry may make administrative inspections of  
528 controlled premises in accordance with the following provisions:

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





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

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

539 (2) When authorized by an administrative inspection  
540 warrant issued in accordance with the conditions imposed in this  
541 section, an officer or employee designated by the Mississippi  
542 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
543 of Medical Licensure, the State Board of Dental Examiners, the  
544 Mississippi Board of Nursing or the State Board of Optometry, upon  
545 presenting the warrant and appropriate credentials to the owner,  
546 operator or agent in charge, may enter controlled premises for the  
547 purpose of conducting an administrative inspection.

548 (3) When authorized by an administrative inspection  
549 warrant, an officer or employee designated by the Mississippi  
550 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
551 of Medical Licensure, the State Board of Dental Examiners, the  
552 Mississippi Board of Nursing or the State Board of Optometry may:

553 (A) Inspect and copy records required by this  
554 article to be kept;

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

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



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

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

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

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

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

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

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

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

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

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



596 (B) The giving of such notice will immediately  
597 endanger the life or safety of the executing officer or another  
598 person; and

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

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

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

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

616 **SECTION 10.** Section 41-29-159, Mississippi Code of 1972, is  
617 amended as follows:

618 41-29-159. (a) Any officer or employee of the Mississippi  
619 Bureau of Narcotics, investigative unit of the State Board of  
620 Pharmacy, investigative unit of the State Board of Medical  
621 Licensure, investigative unit of the State Board of Dental  
622 Examiners, investigative unit of the Mississippi Board of Nursing,  
623 investigative unit of the State Board of Optometry, any duly sworn  
624 peace officer of the State of Mississippi, any enforcement officer  
625 of the Mississippi Department of Transportation, or any highway  
626 patrolman, may, while engaged in the performance of his statutory  
627 duties:

628 (1) Carry firearms;



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

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

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

636           (b) As divided among the Mississippi Bureau of Narcotics,  
637 the State Board of Pharmacy, the State Board of Medical Licensure,  
638 the State Board of Dental Examiners, the Mississippi Board of  
639 Nursing and the State Board of Optometry, the primary  
640 responsibility of the illicit street traffic or other illicit  
641 traffic of drugs is delegated to agents of the Mississippi Bureau  
642 of Narcotics. The State Board of Pharmacy is delegated the  
643 responsibility of regulating and checking the legitimate drug  
644 traffic among pharmacists, pharmacies, hospitals, nursing homes,  
645 drug manufacturers, and any other related professions and  
646 facilities with the exception of the medical, dental, nursing,  
647 optometric and veterinary professions. The State Board of Medical  
648 Licensure is responsible for regulating and checking the  
649 legitimate drug traffic among physicians, podiatrists and  
650 veterinarians. The Mississippi Board of Dental Examiners is  
651 responsible for regulating and checking the legitimate drug  
652 traffic among dentists and dental hygienists. The Mississippi  
653 Board of Nursing is responsible for regulating and checking the  
654 legitimate drug traffic among nurses. The State Board of  
655 Optometry is responsible for regulating and checking the  
656 legitimate drug traffic among optometrists.

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



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

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

672 **SECTION 11.** Section 41-29-167, Mississippi Code of 1972, is  
673 amended as follows:

674 41-29-167. (a) The State Board of Medical Licensure, the  
675 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
676 State Board of Dental Examiners, the Mississippi Board of Nursing  
677 and the State Board of Optometry shall cooperate with federal and  
678 other state agencies in discharging their responsibilities  
679 concerning traffic in controlled substances and in suppressing the  
680 abuse of controlled substances. To this end, they may:

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

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

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



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

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

705 **SECTION 12.** Section 41-29-171, Mississippi Code of 1972, is  
706 amended as follows:

707 41-29-171. (a) The Mississippi Bureau of Narcotics, the  
708 State Board of Pharmacy, the State Board of Medical Licensure,  
709 the State Board of Dental Examiners, the Mississippi Board of  
710 Nursing and the State Board of Optometry shall encourage research  
711 on misuse and abuse of controlled substances. In connection with  
712 the research, and in furtherance of the enforcement of this  
713 article they may:

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

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

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

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

723 (C) Improve methods for preventing, predicting,  
724 understanding and dealing with the misuse and abuse of controlled  
725 substances;



726           (3) Enter into contracts with public agencies,  
727 institutions of higher education, and private organizations or  
728 individuals for the purpose of conducting research,  
729 demonstrations, or special projects which bear directly on misuse  
730 and abuse of controlled substances.

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

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

739           **SECTION 13.** Section 73-19-31, Mississippi Code of 1972, is  
740 amended as follows:

741           73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33  
742 through 73-19-45, which create the Mississippi Board of Optometry  
743 and prescribe its duties and powers, shall stand repealed as of  
744 July 1, 2006.

745           **SECTION 14.** This act shall take effect and be in force from  
746 and after its passage.

