

By: Senator(s) Minor

To: Public Health and Welfare

SENATE BILL NO. 2125

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



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

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

50 73-19-157. * * * Any optometrist certified to prescribe and
51 use therapeutic pharmaceutical agents under Sections 73-19-153
52 through 73-19-165 is authorized to examine, diagnose, manage and
53 treat visual defects, abnormal conditions and diseases of the
54 human eye and adjacent structures including:

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

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

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

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

71 * * *



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

74 73-19-165. Any pharmacist licensed under the laws of the
75 State of Mississippi is authorized to fill and dispense * * *
76 therapeutic pharmaceutical agents to patients * * * for any
77 optometrist certified by the State Board of Optometry to use such
78 agents.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

182 (3) Opium poppy and poppy straw; and

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

- 245 1. Metal, wooden, acrylic, glass, stone,
246 plastic or ceramic pipes with or without screens, permanent
247 screens, hashish heads or punctured metal bowls;
- 248 2. Water pipes;
- 249 3. Carburetion tubes and devices;
- 250 4. Smoking and carburetion masks;
- 251 5. Roach clips, meaning objects used to hold
252 burning material, such as a marihuana cigarette, that has become
253 too small or too short to be held in the hand;
- 254 6. Miniature cocaine spoons and cocaine
255 vials;
- 256 7. Chamber pipes;
- 257 8. Carburetor pipes;
- 258 9. Electric pipes;
- 259 10. Air-driven pipes;
- 260 11. Chillums;
- 261 12. Bongs; and
- 262 13. Ice pipes or chillers.

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

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



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

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

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

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

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

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

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

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

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

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

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



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

303 (xiv) Expert testimony concerning its use.

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

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

309 (y) "Practitioner" means:

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

384 41-29-125. The State Board of Pharmacy may promulgate rules
385 and regulations relating to the registration and control of the
386 manufacture, distribution and dispensing of controlled substances
387 within this state.

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



399 (b) Persons registered by the State Board of Pharmacy,
400 with the consent of the United States Drug Enforcement
401 Administration and the State Board of Medical Licensure, the State
402 Board of Dental Examiners, the Mississippi Board of Nursing or the
403 State Board of Optometry, to manufacture, distribute, dispense or
404 conduct research with controlled substances may possess,
405 manufacture, distribute, dispense or conduct research with those
406 substances to the extent authorized by their registration and in
407 conformity with the other provisions of this article.

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

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

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

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

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

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

428 (f) The State Board of Pharmacy, the Mississippi Bureau
429 of Narcotics, the State Board of Medical Licensure, the State
430 Board of Dental Examiners, the Mississippi Board of Nursing and
431 the State Board of Optometry may inspect the establishment of a



432 registrant or applicant for registration in accordance with the
433 regulations of these agencies as approved by the board.

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

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

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

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

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

462 (2) A search warrant shall issue only upon an affidavit
463 of a person having knowledge or information of the facts alleged,
464 sworn to before the judge or justice court judge and establishing



465 the grounds for issuing the warrant. If the judge or justice
466 court judge is satisfied that grounds for the application exist or
467 that there is probable cause to believe they exist, he shall issue
468 a warrant identifying the area, premises, building or conveyance
469 to be searched, the purpose of the search, and, if appropriate,
470 the type of property to be searched, if any. The warrant shall:

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

474 (B) Be directed to a person authorized by Section
475 41-29-159 to execute it;

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

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

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

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



497 premises the property was taken and to the applicant for the
498 warrant;

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

504 (b) The Mississippi Bureau of Narcotics, the State Board of
505 Pharmacy, the State Board of Medical Licensure, the State Board of
506 Dental Examiners, the Mississippi Board of Nursing or the State
507 Board of Optometry may make administrative inspections of
508 controlled premises in accordance with the following provisions:

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

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

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

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

528 (3) When authorized by an administrative inspection
529 warrant, an officer or employee designated by the Mississippi



530 Bureau of Narcotics, the State Board of Pharmacy, the State Board
531 of Medical Licensure, the State Board of Dental Examiners, the
532 Mississippi Board of Nursing or the State Board of Optometry may:

533 (A) Inspect and copy records required by this
534 article to be kept;

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

542 (C) Inventory any stock of any controlled
543 substance therein and obtain samples thereof.

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

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

551 (B) In situations presenting imminent danger to
552 health or safety;

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

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

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



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

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

572 (1) Is satisfied that there is probable cause to
573 believe that:

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

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

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

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

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

592 This subsection shall expire and stand repealed from and
593 after July 1, 1974, except that the repeal shall not affect the



594 validity or legality of any search authorized under this
595 subsection and conducted prior to July 1, 1974.

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

598 41-29-159. (a) Any officer or employee of the Mississippi
599 Bureau of Narcotics, investigative unit of the State Board of
600 Pharmacy, investigative unit of the State Board of Medical
601 Licensure, investigative unit of the State Board of Dental
602 Examiners, investigative unit of the Mississippi Board of Nursing,
603 investigative unit of the State Board of Optometry, any duly sworn
604 peace officer of the State of Mississippi, any enforcement officer
605 of the Mississippi Department of Transportation, or any highway
606 patrolman, may, while engaged in the performance of his statutory
607 duties:

608 (1) Carry firearms;

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

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

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

616 (b) As divided among the Mississippi Bureau of Narcotics,
617 the State Board of Pharmacy, the State Board of Medical Licensure,
618 the State Board of Dental Examiners, the Mississippi Board of
619 Nursing and the State Board of Optometry, the primary
620 responsibility of the illicit street traffic or other illicit
621 traffic of drugs is delegated to agents of the Mississippi Bureau
622 of Narcotics. The State Board of Pharmacy is delegated the
623 responsibility of regulating and checking the legitimate drug
624 traffic among pharmacists, pharmacies, hospitals, nursing homes,
625 drug manufacturers, and any other related professions and
626 facilities with the exception of the medical, dental, nursing,



627 optometric and veterinary professions. The State Board of Medical
628 Licensure is responsible for regulating and checking the
629 legitimate drug traffic among physicians, podiatrists and
630 veterinarians. The Mississippi Board of Dental Examiners is
631 responsible for regulating and checking the legitimate drug
632 traffic among dentists and dental hygienists. The Mississippi
633 Board of Nursing is responsible for the legitimate drug traffic
634 among nurses. The State Board of Optometry is responsible for
635 regulating and checking the legitimate drug traffic among
636 optometrists.

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

641 (d) Agents of the bureau are authorized to investigate the
642 circumstances of deaths which are caused by drug overdose or which
643 are believed to be caused by drug overdose.

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

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

654 41-29-167. (a) The State Board of Medical Licensure, the
655 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the
656 State Board of Dental Examiners, the Mississippi Board of Nursing
657 and the State Board of Optometry shall cooperate with federal and
658 other state agencies in discharging their responsibilities



659 concerning traffic in controlled substances and in suppressing the
660 abuse of controlled substances. To this end, they may:

661 (1) Arrange for the exchange of information among
662 governmental officials concerning the use and abuse of controlled
663 substances;

664 (2) Coordinate and cooperate in training programs
665 concerning controlled substance law enforcement at local and state
666 levels;

667 (3) Cooperate with the United States Drug Enforcement
668 Administration by establishing a centralized unit to accept,
669 catalogue, file and collect statistics, including records of drug
670 dependent persons and other controlled substance law offenders
671 within the state, and make the information available for federal,
672 state and local law enforcement purposes; and

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

676 (b) Results, information and evidence received from the
677 United States Drug Enforcement Administration relating to the
678 regulatory functions of this article, including results of
679 inspections conducted by it may be relied and acted upon by the
680 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the
681 State Board of Medical Licensure, the State Board of Dental
682 Examiners, the Mississippi Board of Nursing and the State Board of
683 Optometry in the exercise of their regulatory functions under this
684 article.

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

687 41-29-171. (a) The Mississippi Bureau of Narcotics, the
688 State Board of Pharmacy, the State Board of Medical Licensure,
689 the State Board of Dental Examiners, the Mississippi Board of
690 Nursing and the State Board of Optometry shall encourage research
691 on misuse and abuse of controlled substances. In connection with



692 the research, and in furtherance of the enforcement of this
693 article they may:

694 (1) Establish methods to assess accurately the effects
695 of controlled substances and identify and characterize those with
696 potential for abuse;

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

698 (A) Develop new or improved approaches,
699 techniques, systems, equipment and devices to strengthen the
700 enforcement of this article;

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

703 (C) Improve methods for preventing, predicting,
704 understanding and dealing with the misuse and abuse of controlled
705 substances;

706 (3) Enter into contracts with public agencies,
707 institutions of higher education, and private organizations or
708 individuals for the purpose of conducting research,
709 demonstrations, or special projects which bear directly on misuse
710 and abuse of controlled substances.

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

714 (c) The board may authorize the possession and distribution
715 of controlled substances by persons engaged in research. Persons
716 who obtain this authorization are exempt from state prosecution
717 for possession and distribution of controlled substances to the
718 extent of the authorization.

719 **SECTION 13.** This act shall take effect and be in force from
720 and after June 30, 2003.

