 To: Public Health and Welfare

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2003

By: Senator(s) Minor

To: Public Health and Welfare

SENATE BILL NO. 2125

AN ACT TO AMEND SECTION 73-19-1, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DEFINITION OF THE PRACTICE OF OPTOMETRY; TO AMEND SECTION 73-19-157, MISSISSIPPI CODE OF 1972, TO AUTHORIZE OPTOMETRISTS WHO HAVE BEEN CERTIFIED TO PRESCRIBE AND USE THERAPEUTIC PHARMACEUTICAL AGENTS TO ADMINISTER AND PRESCRIBE ANY PHARMACEUTICAL AGENTS RATIONAL TO THE EXAMINATION, DIAGNOSIS, MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PERFORM PRIMARY EYE-CARE PROCEDURES RATIONAL TO THE MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PERFORM OR ORDER PROCEDURES AND LABORATORY TESTS RATIONAL TO THE DIAGNOSIS OF CONDITIONS OR DISEASES OF THE EYE; TO AMEND SECTION 73-19-157, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTION; TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS AS "PRACTITIONERS" UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO AMEND SECTION 41-29-137, MISSISSIPPI CODE OF 1972, TO PROHIBIT THOSE CERTIFIED OPTOMETRISTS FROM PRESCRIBING, ADMINISTERING, DISPENSING OR USING ANY CONTROLLED SUBSTANCE IN SCHEDULE I OR II; TO AMEND SECTIONS 41-29-109, 41-29-125, 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; AND FOR RELATED PURPOSES.

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

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

73-19-1. The practice of optometry is defined to be the application of optical principles, through technical methods and devices in the examination of human eyes for the purpose of ascertaining departures from the normal, measuring their functional powers and adapting optical accessories for the aid thereof. The practice of optometry shall include the prescribing and use of therapeutic pharmaceutical agents by optometrists certified under Sections 73-19-153 through 73-19-165. The practice of optometry shall not include the performing of injections into the eyeball, cataract surgery or invasive surgery
including laser surgery, but shall not preclude the removal of superficial foreign bodies from the eye or other noninvasive procedures. Nothing in this section or any other provision of law shall be construed to prohibit optometrists who have been certified under Sections 73-19-153 through 73-19-165 from providing postophthalmic surgical or clinical care and management with the advice and consultation of the operating or treating physician.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) "Bureau" means the Mississippi Bureau of Narcotics. However, where the title "Bureau of Drug Enforcement" occurs, that term shall also refer to the Mississippi Bureau of Narcotics.
(e) "Commissioner" means the Commissioner of the Department of Public Safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Opium poppy and poppy straw; and

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

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

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

(v) "Paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing,
processing, preparing, testing, analyzing, packaging, repackaging,

storing, containing, concealing, injecting, ingesting, inhaling or

otherwise introducing into the human body a controlled substance

in violation of the Uniform Controlled Substances Law. It

includes, but is not limited to:

(i) Kits used, intended for use, or designed for

use in planting, propagating, cultivating, growing or harvesting

of any species of plant which is a controlled substance or from

which a controlled substance can be derived;

(ii) Kits used, intended for use, or designed for

use in manufacturing, compounding, converting, producing,

processing or preparing controlled substances;

(iii) Isomerization devices used, intended for use

or designed for use in increasing the potency of any species of

plant which is a controlled substance;

(iv) Testing equipment used, intended for use, or

designed for use in identifying or in analyzing the strength,

effectiveness or purity of controlled substances;

(v) Scales and balances used, intended for use or

designed for use in weighing or measuring controlled substances;

(vi) Diluents and adulterants, such as quinine

hydrochloride, mannitol, mannite, dextrose and lactose, used,

intended for use or designed for use in cutting controlled

substances;

(vii) Separation gins and sifters used, intended

for use or designed for use in removing twigs and seeds from, or

in otherwise cleaning or refining, marihuana;

(viii) Blenders, bowls, containers, spoons and

mixing devices used, intended for use or designed for use in

compounding controlled substances;

(ix) Capsules, balloons, envelopes and other

containers used, intended for use or designed for use in packaging

small quantities of controlled substances;
(x) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

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

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

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

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

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

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs; and

13. Ice pipes or chillers.

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

(i) Statements by an owner or by anyone in control of the object concerning its use;
(ii) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

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

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

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

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

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

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

(ix) National and local advertising concerning its use;

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

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

(xii) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
(xiii) The existence and scope of legitimate uses for the object in the community;

(xiv) Expert testimony concerning its use.

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

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

(y) "Practitioner" means:

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

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

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

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

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

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

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

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

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

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

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

(d) An optometrist certified to prescribe and use
therapeutic pharmaceutical agents under Sections 73-19-153 through
Section 6. Section 41-29-109, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(a) Every person who manufactures, distributes or dispenses any controlled substance within this state, or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state, must obtain a registration issued by the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry, as appropriate, in accordance with its rules. Such registration shall be obtained annually or biennially, as specified by the issuing board, and a reasonable fee may be charged by the issuing board for such registration.
(b) Persons registered by the State Board of Pharmacy, with the consent of the United States Drug Enforcement Administration and the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry, to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

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

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

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

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

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

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

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

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

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

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

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

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

(2) A search warrant shall issue only upon an affidavit of a person having knowledge or information of the facts alleged, sworn to before the judge or justice court judge and establishing
the grounds for issuing the warrant. If the judge or justice

court judge is satisfied that grounds for the application exist or

that there is probable cause to believe they exist, he shall issue

a warrant identifying the area, premises, building or conveyance

to be searched, the purpose of the search, and, if appropriate,

the type of property to be searched, if any. The warrant shall:

(A) State the grounds for its issuance and the

name of each person whose affidavit has been taken in support

thereof;

(B) Be directed to a person authorized by Section

41-29-159 to execute it;

(C) Command the person to whom it is directed to

inspect the area, premises, building or conveyance identified for

the purpose specified, and if appropriate, direct the seizure of

the property specified;

(D) Identify the item or types of property to be

seized, if any;

(E) Direct that it be served and designate the

judge or magistrate to whom it shall be returned;

(3) A warrant issued pursuant to this section must be

executed and returned within ten (10) days of its date unless,

upon a showing of a need for additional time, the court orders

otherwise. If property is seized pursuant to a warrant, a copy

shall be given to the person from whom or from whose premises the

property is taken, together with a receipt for the property taken.

The return of the warrant shall be made promptly, accompanied by a

written inventory of any property taken. The inventory shall be

made in the presence of the person executing the warrant and of

the person from whose possession or premises the property was

taken, if present, or in the presence of at least one (1) credible

person other than the person executing the warrant. A copy of the

inventory shall be delivered to the person from whom or from whose
premises the property was taken and to the applicant for the warrant;

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

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

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

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

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

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

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the Mississippi Board of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry, upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.
Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry may:

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

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

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

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

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

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

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

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

(E) In all other situations in which a warrant is not constitutionally required.
(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

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

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

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

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

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

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

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

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

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

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

(1) Carry firearms;

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

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

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

(b) As divided among the Mississippi Bureau of Narcotics,
the State Board of Pharmacy, the State Board of Medical Licensure,
the State Board of Dental Examiners, the Mississippi Board of
Nursing and the State Board of Optometry, the primary
responsibility of the illicit street traffic or other illicit
traffic of drugs is delegated to agents of the Mississippi Bureau
of Narcotics. The State Board of Pharmacy is delegated the
responsibility of regulating and checking the legitimate drug
traffic among pharmacists, pharmacies, hospitals, nursing homes,
drug manufacturers, and any other related professions and
facilities with the exception of the medical, dental, nursing,
and veterinary professions. The State Board of Medical Licensure is responsible for regulating and checking the legitimate drug traffic among physicians, podiatrists and veterinarians. The Mississippi Board of Dental Examiners is responsible for regulating and checking the legitimate drug traffic among dentists and dental hygienists. The Mississippi Board of Nursing is responsible for the legitimate drug traffic among nurses. The State Board of Optometry is responsible for regulating and checking the legitimate drug traffic among optometrists.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Make studies and undertake programs of research to:
   
   (A) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this article;
   
   (B) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and
   
   (C) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances;

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

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

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

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