

By: Senator(s) Minor

To: Public Health and Welfare

SENATE BILL NO. 2325

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 II, III, IV OR V; TO AMEND SECTIONS 41-29-109,
 20 41-29-125, 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND
 21 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; TO AMEND
 26 SECTION 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE
 27 AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE
 28 STATE BOARD OF OPTOMETRY; AND FOR RELATED PURPOSES.

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

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

32 73-19-1. The practice of optometry is defined to be the
 33 application of optical principles, through technical methods and
 34 devices in the examination of human eyes for the purpose of
 35 ascertaining departures from the normal, measuring their
 36 functional powers and adapting or prescribing optical accessories
 37 including spectacles, contact lenses and low-vision devices for
 38 the aid thereof including, but not limited to, the use of
 39 computerized or automated refracting devices, lenses and prisms,
 40 vision therapy and low-vision rehabilitation therapy. Under the



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

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

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

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



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

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

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

90 **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 those 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).
213 Such 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, optometrist certified to prescribe and use
329 therapeutic pharmaceutical agents under Sections 73-19-153 through
330 73-19-165, 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 II, III, IV or V.

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

388 41-29-109. The Mississippi Bureau of Narcotics shall have
389 the full cooperation and use of facilities and personnel of the
390 State Board of Pharmacy, the State Board of Medical Licensure, the
391 State Board of Dental Examiners, the Mississippi Board of Nursing,
392 the State Board of Optometry, the district and county attorneys,
393 and of the Attorney General's office.

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



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

401 41-29-125. The State Board of Pharmacy may promulgate rules
402 and regulations relating to the registration and control of the
403 manufacture, distribution and dispensing of controlled substances
404 within this state.

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

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

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

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



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

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

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

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

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

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

453 41-29-133. Persons registered to manufacture, distribute, or
454 dispense controlled substances under this article shall keep
455 records and maintain inventories in conformance with the
456 record-keeping and inventory requirements of federal law and with
457 any additional rules the State Board of Pharmacy, the State Board
458 of Medical Licensure, the State Board of Dental Examiners, the
459 Mississippi Board of Nursing or the State Board of Optometry may
460 issue.

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



463 41-29-157. (a) Issuance and execution of administrative
464 inspection warrants and search warrants shall be as follows,
465 except as provided in subsection (c) of this section:

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

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

488 (A) State the grounds for its issuance and the
489 name of each person whose affidavit has been taken in support
490 thereof;

491 (B) Be directed to a person authorized by Section
492 41-29-159 to execute it;

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



495 the purpose specified, and if appropriate, direct the seizure of
496 the property specified;

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

615 41-29-159. (a) Any officer or employee of the Mississippi
616 Bureau of Narcotics, investigative unit of the State Board of
617 Pharmacy, investigative unit of the State Board of Medical
618 Licensure, investigative unit of the State Board of Dental
619 Examiners, investigative unit of the Mississippi Board of Nursing,
620 investigative unit of the State Board of Optometry, any duly sworn
621 peace officer of the State of Mississippi, any enforcement officer
622 of the Mississippi Department of Transportation, or any highway
623 patrolman, may, while engaged in the performance of his statutory
624 duties:

625 (1) Carry firearms;



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

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

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

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

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



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

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

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

671 41-29-167. (a) The State Board of Medical Licensure, the
672 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the
673 State Board of Dental Examiners, the Mississippi Board of Nursing
674 and the State Board of Optometry shall cooperate with federal and
675 other state agencies in discharging their responsibilities
676 concerning traffic in controlled substances and in suppressing the
677 abuse of controlled substances. To this end, they may:

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

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

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



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

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

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

704 41-29-171. (a) The Mississippi Bureau of Narcotics, the
705 State Board of Pharmacy, the State Board of Medical Licensure,
706 the State Board of Dental Examiners, the Mississippi Board of
707 Nursing and the State Board of Optometry shall encourage research
708 on misuse and abuse of controlled substances. In connection with
709 the research, and in furtherance of the enforcement of this
710 article they may:

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

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

715 (A) Develop new or improved approaches,
716 techniques, systems, equipment and devices to strengthen the
717 enforcement of this article;

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

720 (C) Improve methods for preventing, predicting,
721 understanding and dealing with the misuse and abuse of controlled
722 substances;



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

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

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

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

738 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33
739 through 73-19-45, which create the Mississippi Board of Optometry
740 and prescribe its duties and powers, shall stand repealed as of
741 July 1, 2013.

742 **SECTION 14.** This act shall take effect and be in force from
743 and after July 1, 2003.

