

By: Representative Guice

To: Public Health and Human
Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 279

1 AN ACT TO AMEND SECTION 73-19-1, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE DEFINITION OF THE PRACTICE OF OPTOMETRY; TO AMEND
3 SECTION 73-19-157, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
4 OPTOMETRISTS WHO HAVE BEEN CERTIFIED TO PRESCRIBE AND USE
5 THERAPEUTIC PHARMACEUTICAL AGENTS TO ADMINISTER AND PRESCRIBE ANY
6 PHARMACEUTICAL AGENTS RATIONAL TO THE EXAMINATION, DIAGNOSIS,
7 MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE; TO
8 AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PERFORM PRIMARY EYE CARE
9 PROCEDURES RATIONAL TO THE MANAGEMENT OR TREATMENT OF CONDITIONS
10 OR DISEASES OF THE EYE; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS
11 TO PERFORM OR ORDER PROCEDURES AND LABORATORY TESTS RATIONAL TO
12 THE DIAGNOSIS OF CONDITIONS OR DISEASES OF THE EYE; TO AMEND
13 SECTION 73-19-165, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
14 PRECEDING SECTION; TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF
15 1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS AS "PRACTITIONERS"
16 UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO AMEND SECTION
17 41-29-137, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THOSE CERTIFIED
18 OPTOMETRISTS TO PRESCRIBE OR ADMINISTER ANY CONTROLLED SUBSTANCE
19 IN SCHEDULE III, IV OR V; TO AMEND SECTIONS 41-29-109, 41-29-125,
20 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND 41-29-171,
21 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE BOARD OF
22 OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED
23 OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT
24 THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND
25 CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; TO AMEND
26 SECTION 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE
27 AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE
28 STATE BOARD OF OPTOMETRY; AND FOR RELATED PURPOSES.

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

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

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

41 direction or supervision of a licensed optometrist, any of the
42 following health care providers may assist in the provision of
43 vision therapy or low-vision rehabilitation services, in addition
44 to such other services that the health care provider is authorized
45 by law to provide: a licensed professional nurse, licensed nurse
46 practitioner, licensed practical nurse, licensed physical
47 therapist or licensed occupational therapist. The practice of
48 optometry shall include the prescribing and use of therapeutic
49 pharmaceutical agents by optometrists certified under Sections
50 73-19-153 through 73-19-165. The practice of optometry shall not
51 include the performing of injections into the eyeball, cataract
52 surgery, laser surgery, injections of Botox (Botulinum Toxin Type
53 A), intravenous injections, retinal surgery, muscle surgery,
54 cosmetic lid surgery, radial keratomy, laser in-situ
55 keratomileusis (LASIK), cryosurgery, surgery to remove tumors
56 behind the eye, sinus surgery, rhinoplasty, corneal transplants,
57 or other surgical procedures requiring more than a local
58 anesthesia, but shall not preclude the removal of superficial
59 foreign bodies from the eye or other noninvasive procedures.
60 Nothing in this section or any other provision of law shall be
61 construed to prohibit optometrists who have been certified under
62 Sections 73-19-153 through 73-19-165 from providing postophthalmic
63 surgical or clinical care and management with the advice and
64 consultation of the operating or treating physician.

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

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

72 (a) The administration and prescribing of
73 pharmaceutical agents by any route of administration rational to

74 the examination, diagnosis, management or treatment of visual
75 defects, abnormal conditions or diseases of the * * * eye or
76 adjacent structures for proper optometric practice;

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

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

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

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

97 73-19-165. Any pharmacist licensed under the laws of the
98 State of Mississippi is authorized to fill and dispense * * *
99 therapeutic pharmaceutical agents to patients for any optometrist
100 certified by the State Board of Optometry to use those agents.

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

103 41-29-105. The following words and phrases, as used in this
104 article, shall have the following meanings, unless the context
105 otherwise requires:

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

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

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

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

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

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

126 (e) "Commissioner" means the Commissioner of the
127 Department of Public Safety.

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

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

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

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

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

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

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

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

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

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

167 (p) "Immediate precursor" means a substance which the
168 board has found to be and by rule designates as being the
169 principal compound commonly used or produced primarily for use,
170 and which is an immediate chemical intermediary used or likely to

171 be used in the manufacture of a controlled substance, the control
172 of which is necessary to prevent, curtail, or limit manufacture.

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

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

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

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

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

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

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

204 (3) Opium poppy and poppy straw; and
205 (4) Cocaine, coca leaves and any salt, compound,
206 derivative or preparation of cocaine, coca leaves, and any salt,
207 compound, isomer, derivative or preparation thereof which is
208 chemically equivalent or identical with any of these substances,
209 but not including decocainized coca leaves or extractions of coca
210 leaves which do not contain cocaine or ecgonine.

211 (t) "Opiate" means any substance having an
212 addiction-forming or addiction-sustaining liability similar to
213 morphine or being capable of conversion into a drug having
214 addiction-forming or addiction-sustaining liability. It does not
215 include, unless specifically designated as controlled under
216 Section 41-29-111, the dextrorotatory isomer of
217 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
218 Such word does include its racemic and levorotatory forms.

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

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

230 (i) Kits used, intended for use, or designed for
231 use in planting, propagating, cultivating, growing or harvesting
232 of any species of plant which is a controlled substance or from
233 which a controlled substance can be derived;

234 (ii) Kits used, intended for use, or designed for
235 use in manufacturing, compounding, converting, producing,
236 processing or preparing controlled substances;

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

240 (iv) Testing equipment used, intended for use, or
241 designed for use in identifying or in analyzing the strength,
242 effectiveness or purity of controlled substances;

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

245 (vi) Diluents and adulterants, such as quinine
246 hydrochloride, mannitol, mannite, dextrose and lactose, used,
247 intended for use or designed for use in cutting controlled
248 substances;

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

252 (viii) Blenders, bowls, containers, spoons and
253 mixing devices used, intended for use or designed for use in
254 compounding controlled substances;

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

258 (x) Containers and other objects used, intended
259 for use or designed for use in storing or concealing controlled
260 substances;

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

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

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

- 270 2. Water pipes;
- 271 3. Carburetion tubes and devices;
- 272 4. Smoking and carburetion masks;
- 273 5. Roach clips, meaning objects used to hold
- 274 burning material, such as a marihuana cigarette, that has become
- 275 too small or too short to be held in the hand;
- 276 6. Miniature cocaine spoons and cocaine
- 277 vials;
- 278 7. Chamber pipes;
- 279 8. Carburetor pipes;
- 280 9. Electric pipes;
- 281 10. Air-driven pipes;
- 282 11. Chillums;
- 283 12. Bongs; and
- 284 13. Ice pipes or chillers.

285 In determining whether an object is paraphernalia, a court or

286 other authority should consider, in addition to all other

287 logically relevant factors, the following:

288 (i) Statements by an owner or by anyone in control

289 of the object concerning its use;

290 (ii) Prior convictions, if any, of an owner, or of

291 anyone in control of the object, under any state or federal law

292 relating to any controlled substance;

293 (iii) The proximity of the object, in time and

294 space, to a direct violation of the Uniform Controlled Substances

295 Law;

296 (iv) The proximity of the object to controlled

297 substances;

298 (v) The existence of any residue of controlled

299 substances on the object;

300 (vi) Direct or circumstantial evidence of the

301 intent of an owner, or of anyone in control of the object, to

302 deliver it to persons whom he knows, or should reasonably know,

303 intend to use the object to facilitate a violation of the Uniform
304 Controlled Substances Law; the innocence of an owner, or of anyone
305 in control of the object, as to a direct violation of the Uniform
306 Controlled Substances Law shall not prevent a finding that the
307 object is intended for use, or designed for use as paraphernalia;

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

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

312 (ix) National and local advertising concerning its
313 use;

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

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

320 (xii) Direct or circumstantial evidence of the
321 ratio of sales of the object(s) to the total sales of the business
322 enterprise;

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

325 (xiv) Expert testimony concerning its use.

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

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

331 (y) "Practitioner" means:

332 (1) A physician, dentist, veterinarian, scientific
333 investigator, optometrist certified to prescribe and use
334 therapeutic pharmaceutical agents under Sections 73-19-153 through
335 73-19-165, or other person licensed, registered or otherwise

336 permitted to distribute, dispense, conduct research with respect
337 to or to administer a controlled substance in the course of
338 professional practice or research in this state; and

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

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

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

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

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

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

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

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

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

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

387 (d) An optometrist certified to prescribe and use
388 therapeutic pharmaceutical agents under Sections 73-19-153 through
389 73-19-165 shall be authorized to prescribe or administer any
390 controlled substance in Schedule III, IV or V. However, an
391 optometrist shall not maintain, store or possess any controlled
392 substances on the premises where the optometrist's practice is
393 located.

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

396 41-29-109. The Mississippi Bureau of Narcotics shall have
397 the full cooperation and use of facilities and personnel of the
398 State Board of Pharmacy, the State Board of Medical Licensure, the
399 State Board of Dental Examiners, the Mississippi Board of Nursing,

400 the State Board of Optometry, the district and county attorneys,
401 and of the Attorney General's office.

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

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

409 41-29-125. The State Board of Pharmacy may promulgate rules
410 and regulations relating to the registration and control of the
411 manufacture, distribution and dispensing of controlled substances
412 within this state.

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

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

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

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

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

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

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

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

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

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

461 41-29-133. Persons registered to manufacture, distribute, or
462 dispense controlled substances under this article shall keep
463 records and maintain inventories in conformance with the
464 record-keeping and inventory requirements of federal law and with
465 any additional rules the State Board of Pharmacy, the State Board

466 of Medical Licensure, the State Board of Dental Examiners, the
467 Mississippi Board of Nursing or the State Board of Optometry may
468 issue.

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

471 41-29-157. (a) Issuance and execution of administrative
472 inspection warrants and search warrants shall be as follows,
473 except as provided in subsection (c) of this section:

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

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

496 (A) State the grounds for its issuance and the
497 name of each person whose affidavit has been taken in support
498 thereof;

499 (B) Be directed to a person authorized by Section
500 41-29-159 to execute it;

501 (C) Command the person to whom it is directed to
502 inspect the area, premises, building or conveyance identified for
503 the purpose specified, and if appropriate, direct the seizure of
504 the property specified;

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

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

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

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

529 (b) The Mississippi Bureau of Narcotics, the State Board of
530 Pharmacy, the State Board of Medical Licensure, the State Board of
531 Dental Examiners, the Mississippi Board of Nursing or the State

532 Board of Optometry may make administrative inspections of
533 controlled premises in accordance with the following provisions:

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

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

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

544 (2) When authorized by an administrative inspection
545 warrant issued in accordance with the conditions imposed in this
546 section, 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, upon
550 presenting the warrant and appropriate credentials to the owner,
551 operator or agent in charge, may enter controlled premises for the
552 purpose of conducting an administrative inspection.

553 (3) When authorized by an administrative inspection
554 warrant, an officer or employee designated by the Mississippi
555 Bureau of Narcotics, the State Board of Pharmacy, the State Board
556 of Medical Licensure, the State Board of Dental Examiners, the
557 Mississippi Board of Nursing or the State Board of Optometry may:

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

560 (B) Inspect, within reasonable limits and in a
561 reasonable manner, controlled premises and all pertinent
562 equipment, finished and unfinished material, containers and
563 labeling found therein, and, except as provided in paragraph (5)
564 of this subsection, all other things therein, including records,

565 files, papers, processes, controls and facilities bearing on
566 violation of this article; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

623 41-29-159. (a) Any officer or employee of the Mississippi
624 Bureau of Narcotics, investigative unit of the State Board of
625 Pharmacy, investigative unit of the State Board of Medical
626 Licensure, investigative unit of the State Board of Dental
627 Examiners, investigative unit of the Mississippi Board of Nursing,
628 investigative unit of the State Board of Optometry, any duly sworn
629 peace officer of the State of Mississippi, any enforcement officer

630 of the Mississippi Department of Transportation, or any highway
631 patrolman, may, while engaged in the performance of his statutory
632 duties:

633 (1) Carry firearms;

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

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

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

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

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

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

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

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

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

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

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

692 (3) Cooperate with the United States Drug Enforcement
693 Administration by establishing a centralized unit to accept,
694 catalogue, file and collect statistics, including records of drug

695 dependent persons and other controlled substance law offenders
696 within the state, and make the information available for federal,
697 state and local law enforcement purposes; and

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

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

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

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

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

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

723 (A) Develop new or improved approaches,
724 techniques, systems, equipment and devices to strengthen the
725 enforcement of this article;

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

728 (C) Improve methods for preventing, predicting,
729 understanding and dealing with the misuse and abuse of controlled
730 substances;

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

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

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

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

746 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33
747 through 73-19-45, which create the Mississippi Board of Optometry
748 and prescribe its duties and powers, shall stand repealed as of
749 July 1, 2014.

750 **SECTION 14.** This act shall take effect and be in force from
751 and after July 1, 2004.