

By: Representative Guice

To: Public Health and Human  
ServicesHOUSE BILL NO. 279  
(As Passed the House)

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 ANY CONTROLLED SUBSTANCE IN SCHEDULE  
 19 III, IV OR V, NOT TO EXCEED A SEVENTY-TWO-HOUR SUPPLY; TO AMEND  
 20 SECTIONS 41-29-109, 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 IS RESPONSIBLE FOR REGULATING AND CHECKING THE  
 23 LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; TO AMEND SECTION  
 24 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE AUTOMATIC  
 25 REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE STATE BOARD  
 26 OF OPTOMETRY; AND FOR RELATED PURPOSES.

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

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

30 73-19-1. The practice of optometry is defined to be the  
 31 application of optical principles, through technical methods and  
 32 devices in the examination of human eyes for the purpose of  
 33 ascertaining departures from the normal, measuring their  
 34 functional powers and adapting or prescribing optical accessories  
 35 including spectacles, contact lenses and low-vision devices for  
 36 the aid thereof including, but not limited to, the use of  
 37 computerized or automated refracting devices, lenses and prisms,  
 38 vision therapy and low-vision rehabilitation therapy. The  
 39 practice of optometry shall include the prescribing and use of

40 therapeutic pharmaceutical agents by optometrists certified under  
41 Sections 73-19-153 through 73-19-165. The practice of optometry  
42 shall not include the performing of injections into the eyeball,  
43 cataract surgery, laser surgery, injections of Botox (Botulinum  
44 Toxin Type A), intravenous injections, retinal surgery, muscle  
45 surgery, cosmetic lid surgery, radial keratotomy, laser in-situ  
46 keratomileusis (LASIK), cryosurgery, surgery to remove tumors  
47 behind the eye, sinus surgery, rhinoplasty, corneal transplants,  
48 or other surgical procedures requiring more than a local  
49 anesthesia, but shall not preclude the removal of superficial  
50 foreign bodies from the eye or other noninvasive procedures.  
51 Nothing in this section or any other provision of law shall be  
52 construed to prohibit optometrists who have been certified under  
53 Sections 73-19-153 through 73-19-165 from providing postophthalmic  
54 surgical or clinical care and management with the advice and  
55 consultation of the operating or treating physician.

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

58 73-19-157. \* \* \* Any optometrist certified to prescribe and  
59 use therapeutic pharmaceutical agents under Sections 73-19-153  
60 through 73-19-165 is authorized to examine, diagnose, manage and  
61 treat visual defects, abnormal conditions and diseases of the  
62 human eye and adjacent structures including:

63 (a) The administration and prescribing of  
64 pharmaceutical agents rational to the examination, diagnosis,  
65 management or treatment of visual defects, abnormal conditions or  
66 diseases of the \* \* \* eye or adjacent structures for proper  
67 optometric practice;

68 (b) The performance of primary eye care procedures  
69 rational to the management or treatment of visual defects,  
70 abnormal conditions or diseases of the eye or adjacent structures  
71 as determined by the State Board of Optometry, in annual  
72 consultation with at least three (3) colleges of optometry with

73 regard to the current level of instruction in optometric practice.  
74 "Primary eye care procedures," for the purposes of this paragraph,  
75 means in-office procedures that do not require more than a local  
76 anesthesia, but does not include procedures that require closure  
77 by suturing or the administration of treatment directly into the  
78 eyeball, i.e., intraocular injections;

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

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

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

88 73-19-165. Any pharmacist licensed under the laws of the  
89 State of Mississippi is authorized to fill and dispense \* \* \*  
90 therapeutic pharmaceutical agents to patients for any optometrist  
91 certified by the State Board of Optometry to use those agents.

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

94 41-29-105. The following words and phrases, as used in this  
95 article, shall have the following meanings, unless the context  
96 otherwise requires:

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

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

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

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

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

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

117           (e) "Commissioner" means the Commissioner of the  
118 Department of Public Safety.

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

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

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

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

135           (j) "Dispense" means to deliver a controlled substance  
136 to an ultimate user or research subject by or pursuant to the  
137 lawful order of a practitioner, including the prescribing,

138 administering, packaging, labeling or compounding necessary to  
139 prepare the substance for that delivery.

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

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

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

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

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

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

164 (q) "Manufacture" means the production, preparation,  
165 propagation, compounding, conversion or processing of a controlled  
166 substance, either directly or indirectly, by extraction from  
167 substances of natural origin, or independently by means of  
168 chemical synthesis, or by a combination of extraction and chemical  
169 synthesis, and includes any packaging or repackaging of the  
170 substance or labeling or relabeling of its container. The term

171 "manufacture" does not include the preparation, compounding,  
172 packaging or labeling of a controlled substance in conformity with  
173 applicable state and local law:

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

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

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

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

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

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

195 (3) Opium poppy and poppy straw; and

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

202 (t) "Opiate" means any substance having an  
203 addiction-forming or addiction-sustaining liability similar to

204 morphine or being capable of conversion into a drug having  
205 addiction-forming or addiction-sustaining liability. It does not  
206 include, unless specifically designated as controlled under  
207 Section 41-29-111, the dextrorotatory isomer of  
208 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
209 Such word does include its racemic and levorotatory forms.

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

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

221 (i) Kits used, intended for use, or designed for  
222 use in planting, propagating, cultivating, growing or harvesting  
223 of any species of plant which is a controlled substance or from  
224 which a controlled substance can be derived;

225 (ii) Kits used, intended for use, or designed for  
226 use in manufacturing, compounding, converting, producing,  
227 processing or preparing controlled substances;

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

231 (iv) Testing equipment used, intended for use, or  
232 designed for use in identifying or in analyzing the strength,  
233 effectiveness or purity of controlled substances;

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

236 (vi) Diluents and adulterants, such as quinine  
237 hydrochloride, mannitol, mannite, dextrose and lactose, used,  
238 intended for use or designed for use in cutting controlled  
239 substances;

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

243 (viii) Blenders, bowls, containers, spoons and  
244 mixing devices used, intended for use or designed for use in  
245 compounding controlled substances;

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

249 (x) Containers and other objects used, intended  
250 for use or designed for use in storing or concealing controlled  
251 substances;

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

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

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

261 2. Water pipes;

262 3. Carburetion tubes and devices;

263 4. Smoking and carburetion masks;

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

267 6. Miniature cocaine spoons and cocaine  
268 vials;



- 269                   7. Chamber pipes;  
270                   8. Carburetor pipes;  
271                   9. Electric pipes;  
272                   10. Air-driven pipes;  
273                   11. Chillums;  
274                   12. Bongs; and  
275                   13. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

303 (ix) National and local advertising concerning its  
304 use;

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

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

311 (xii) Direct or circumstantial evidence of the  
312 ratio of sales of the object(s) to the total sales of the business  
313 enterprise;

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

316 (xiv) Expert testimony concerning its use.

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

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

322 (y) "Practitioner" means:

323 (1) A physician, dentist, veterinarian, scientific  
324 investigator, optometrist certified to prescribe and use  
325 therapeutic pharmaceutical agents under Sections 73-19-153 through  
326 73-19-165, or other person licensed, registered or otherwise  
327 permitted to distribute, dispense, conduct research with respect  
328 to or to administer a controlled substance in the course of  
329 professional practice or research in this state; and

330 (2) A pharmacy, hospital or other institution  
331 licensed, registered, or otherwise permitted to distribute,  
332 dispense, conduct research with respect to or to administer a

333 controlled substance in the course of professional practice or  
334 research in this state.

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

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

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

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

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

351 41-29-137. (a) Except when dispensed directly by a  
352 practitioner, other than a pharmacy, to an ultimate user, no  
353 controlled substance in Schedule II, as set out in Section  
354 41-29-115, may be dispensed without the written prescription of a  
355 practitioner. A practitioner shall keep a record of all  
356 controlled substances in Schedule I, II and III administered,  
357 dispensed or professionally used by him otherwise than by  
358 prescription.

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

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

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

378 (d) An optometrist certified to prescribe and use  
379 therapeutic pharmaceutical agents under Sections 73-19-153 through  
380 73-19-165 shall be authorized to prescribe any controlled  
381 substance in Schedule III, IV or V, not to exceed a  
382 seventy-two-hour supply. However, an optometrist shall not  
383 maintain, store or possess any controlled substances on the  
384 premises where the optometrist's practice is located.

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

387 41-29-109. The Mississippi Bureau of Narcotics shall have  
388 the full cooperation and use of facilities and personnel of the  
389 State Board of Pharmacy, the State Board of Medical Licensure, the  
390 State Board of Dental Examiners, the Mississippi Board of Nursing,  
391 the State Board of Optometry, the district and county attorneys,  
392 and of the Attorney General's office.

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

398           **SECTION 7.** Section 41-29-133, Mississippi Code of 1972, is  
399 amended as follows:

400           41-29-133. Persons registered to manufacture, distribute, or  
401 dispense controlled substances under this article shall keep  
402 records and maintain inventories in conformance with the  
403 record-keeping and inventory requirements of federal law and with  
404 any additional rules the State Board of Pharmacy, the State Board  
405 of Medical Licensure, the State Board of Dental Examiners, the  
406 Mississippi Board of Nursing or the State Board of Optometry may  
407 issue.

408           **SECTION 8.** Section 41-29-157, Mississippi Code of 1972, is  
409 amended as follows:

410           41-29-157. (a) Issuance and execution of administrative  
411 inspection warrants and search warrants shall be as follows,  
412 except as provided in subsection (c) of this section:

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

426           (2) A search warrant shall issue only upon an affidavit  
427 of a person having knowledge or information of the facts alleged,  
428 sworn to before the judge or justice court judge and establishing  
429 the grounds for issuing the warrant. If the judge or justice  
430 court judge is satisfied that grounds for the application exist or

431 that there is probable cause to believe they exist, he shall issue  
432 a warrant identifying the area, premises, building or conveyance  
433 to be searched, the purpose of the search, and, if appropriate,  
434 the type of property to be searched, if any. The warrant shall:

435 (A) State the grounds for its issuance and the  
436 name of each person whose affidavit has been taken in support  
437 thereof;

438 (B) Be directed to a person authorized by Section  
439 41-29-159 to execute it;

440 (C) Command the person to whom it is directed to  
441 inspect the area, premises, building or conveyance identified for  
442 the purpose specified, and if appropriate, direct the seizure of  
443 the property specified;

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

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

448 (3) A warrant issued pursuant to this section must be  
449 executed and returned within ten (10) days of its date unless,  
450 upon a showing of a need for additional time, the court orders  
451 otherwise. If property is seized pursuant to a warrant, a copy  
452 shall be given to the person from whom or from whose premises the  
453 property is taken, together with a receipt for the property taken.  
454 The return of the warrant shall be made promptly, accompanied by a  
455 written inventory of any property taken. The inventory shall be  
456 made in the presence of the person executing the warrant and of  
457 the person from whose possession or premises the property was  
458 taken, if present, or in the presence of at least one (1) credible  
459 person other than the person executing the warrant. A copy of the  
460 inventory shall be delivered to the person from whom or from whose  
461 premises the property was taken and to the applicant for the  
462 warrant;

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

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

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

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

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

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

492           (3) When authorized by an administrative inspection  
493 warrant, an officer or employee designated by the Mississippi  
494 Bureau of Narcotics, the State Board of Pharmacy, the State Board

495 of Medical Licensure, the State Board of Dental Examiners, the  
496 Mississippi Board of Nursing or the State Board of Optometry may:

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

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

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

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

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

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

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

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

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

526 (5) An inspection authorized by this section shall not  
527 extend to financial data, sales data, other than shipment data, or



528 pricing data unless the owner, operator or agent in charge of the  
529 controlled premises consents in writing.

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

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

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

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

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

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

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

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

560           **SECTION 9.** Section 41-29-159, Mississippi Code of 1972, is  
561 amended as follows:

562           41-29-159. (a) Any officer or employee of the Mississippi  
563 Bureau of Narcotics, investigative unit of the State Board of  
564 Pharmacy, investigative unit of the State Board of Medical  
565 Licensure, investigative unit of the State Board of Dental  
566 Examiners, investigative unit of the Mississippi Board of Nursing,  
567 investigative unit of the State Board of Optometry, any duly sworn  
568 peace officer of the State of Mississippi, any enforcement officer  
569 of the Mississippi Department of Transportation, or any highway  
570 patrolman, may, while engaged in the performance of his statutory  
571 duties:

572                   (1) Carry firearms;

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

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

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

580           (b) As divided among the Mississippi Bureau of Narcotics,  
581 the State Board of Pharmacy, the State Board of Medical Licensure,  
582 the State Board of Dental Examiners, the Mississippi Board of  
583 Nursing and the State Board of Optometry, the primary  
584 responsibility of the illicit street traffic or other illicit  
585 traffic of drugs is delegated to agents of the Mississippi Bureau  
586 of Narcotics. The State Board of Pharmacy is delegated the  
587 responsibility of regulating and checking the legitimate drug  
588 traffic among pharmacists, pharmacies, hospitals, nursing homes,  
589 drug manufacturers, and any other related professions and  
590 facilities with the exception of the medical, dental, nursing,  
591 optometric and veterinary professions. The State Board of Medical  
592 Licensure is responsible for regulating and checking the

593 legitimate drug traffic among physicians, podiatrists and  
594 veterinarians. The Mississippi Board of Dental Examiners is  
595 responsible for regulating and checking the legitimate drug  
596 traffic among dentists and dental hygienists. The Mississippi  
597 Board of Nursing is responsible for regulating and checking the  
598 legitimate drug traffic among nurses. The State Board of  
599 Optometry is responsible for regulating and checking the  
600 legitimate drug traffic among optometrists.

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

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

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

616 **SECTION 10.** Section 41-29-167, Mississippi Code of 1972, is  
617 amended as follows:

618 41-29-167. (a) The State Board of Medical Licensure, the  
619 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
620 State Board of Dental Examiners, the Mississippi Board of Nursing  
621 and the State Board of Optometry shall cooperate with federal and  
622 other state agencies in discharging their responsibilities  
623 concerning traffic in controlled substances and in suppressing the  
624 abuse of controlled substances. To this end, they may:

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

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

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

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

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

649           **SECTION 11.** Section 41-29-171, Mississippi Code of 1972, is  
650 amended as follows:

651           41-29-171. (a) The Mississippi Bureau of Narcotics, the  
652 State Board of Pharmacy, the State Board of Medical Licensure,  
653 the State Board of Dental Examiners, the Mississippi Board of  
654 Nursing and the State Board of Optometry shall encourage research  
655 on misuse and abuse of controlled substances. In connection with  
656 the research, and in furtherance of the enforcement of this  
657 article they may:

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

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

662 (A) Develop new or improved approaches,  
663 techniques, systems, equipment and devices to strengthen the  
664 enforcement of this article;

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

667 (C) Improve methods for preventing, predicting,  
668 understanding and dealing with the misuse and abuse of controlled  
669 substances;

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

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

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

683 **SECTION 12.** Section 73-19-31, Mississippi Code of 1972, is  
684 amended as follows:

685 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33  
686 through 73-19-45, which create the Mississippi Board of Optometry  
687 and prescribe its duties and powers, shall stand repealed as of  
688 July 1, 2014.

689 **SECTION 13.** This act shall take effect and be in force from  
690 and after July 1, 2004.