

By: Representative Guice

To: Public Health and Human
Services

HOUSE BILL NO. 665

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 ORAL
 6 PHARMACEUTICAL AGENTS RATIONAL TO THE EXAMINATION, DIAGNOSIS,
 7 MANAGEMENT OR TREATMENT OF CONDITIONS OR DISEASES OF THE EYE
 8 AND/OR EYELIDS; TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO ORDER
 9 RADIOLOGICAL AND LABORATORY TESTS RATIONAL TO THE DIAGNOSIS OF
 10 CONDITIONS OR DISEASES OF THE EYE AND/OR EYELIDS; TO AUTHORIZE
 11 THOSE CERTIFIED OPTOMETRISTS TO ADMINISTER AN AUTO INJECTION OR
 12 EPI-PEN TO COUNTERACT ANAPHYLACTIC REACTION; TO AMEND SECTION
 13 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 THAT PERTAINS TO TREATMENT AND MANAGEMENT OF EYE
 20 DISEASE, BY WRITTEN PRESCRIPTION ONLY AND NOT TO EXCEED A
 21 SEVENTY-TWO-HOUR SUPPLY; TO AMEND SECTIONS 41-29-109, 41-29-133,
 22 41-29-157, 41-29-159, 41-29-167 AND 41-29-171, MISSISSIPPI CODE OF
 23 1972, TO PROVIDE THAT THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE
 24 FOR REGULATING AND CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG
 25 OPTOMETRISTS; TO AMEND SECTION 73-19-31, MISSISSIPPI CODE OF 1972,
 26 TO EXTEND THE AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND
 27 EMPOWERING THE STATE BOARD OF OPTOMETRY; AND FOR RELATED PURPOSES.

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

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

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

40 practice of optometry shall include the prescribing and use of
41 therapeutic pharmaceutical agents by optometrists certified under
42 Sections 73-19-153 through 73-19-165. * * * Nothing in this
43 section or any other provision of law shall be construed to
44 prohibit optometrists who have been certified under Sections
45 73-19-153 through 73-19-165 from performing any procedure under
46 present law, or that has previously been approved by the State
47 Board of Optometry, or from providing postophthalmic surgical or
48 clinical care and management with the advice and consultation of
49 the operating or treating physician.

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

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

57 (a) The administration and prescribing of oral
58 pharmaceutical agents rational to the examination, diagnosis,
59 management and treatment of visual defects, abnormal conditions
60 and diseases of the * * * eye and/or eyelids for proper optometric
61 practice;

62 (b) The ordering of radiological and laboratory tests
63 rational to the diagnosis of visual defects, abnormal conditions
64 or diseases of the eye or affecting the eye and/or eyelids; and

65 (c) The authority to administer an auto injection or
66 epi-pen to counteract anaphylactic reaction.

67 * * *

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

70 73-19-165. Any pharmacist licensed under the laws of the
71 State of Mississippi is authorized to fill and dispense * * *

72 therapeutic pharmaceutical agents to patients for any optometrist
73 certified by the State Board of Optometry to use those agents.

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

76 41-29-105. The following words and phrases, as used in this
77 article, shall have the following meanings, unless the context
78 otherwise requires:

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

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

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

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

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

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

99 (e) "Commissioner" means the Commissioner of the
100 Department of Public Safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

167 (s) "Narcotic drug" means any of the following, whether
168 produced directly or indirectly by extraction from substances of

169 vegetable origin, or independently by means of chemical synthesis,
170 or by a combination of extraction and chemical synthesis:

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

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

177 (3) Opium poppy and poppy straw; and

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

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

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

194 (v) "Paraphernalia" means all equipment, products and
195 materials of any kind which are used, intended for use, or
196 designed for use, in planting, propagating, cultivating, growing,
197 harvesting, manufacturing, compounding, converting, producing,
198 processing, preparing, testing, analyzing, packaging, repackaging,
199 storing, containing, concealing, injecting, ingesting, inhaling or
200 otherwise introducing into the human body a controlled substance

201 in violation of the Uniform Controlled Substances Law. It
202 includes, but is not limited to:

203 (i) Kits used, intended for use, or designed for
204 use in planting, propagating, cultivating, growing or harvesting
205 of any species of plant which is a controlled substance or from
206 which a controlled substance can be derived;

207 (ii) Kits used, intended for use, or designed for
208 use in manufacturing, compounding, converting, producing,
209 processing or preparing controlled substances;

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

213 (iv) Testing equipment used, intended for use, or
214 designed for use in identifying or in analyzing the strength,
215 effectiveness or purity of controlled substances;

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

218 (vi) Diluents and adulterants, such as quinine
219 hydrochloride, mannitol, mannite, dextrose and lactose, used,
220 intended for use or designed for use in cutting controlled
221 substances;

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

225 (viii) Blenders, bowls, containers, spoons and
226 mixing devices used, intended for use or designed for use in
227 compounding controlled substances;

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

231 (x) Containers and other objects used, intended
232 for use or designed for use in storing or concealing controlled
233 substances;

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

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

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

243 2. Water pipes;

244 3. Carburetion tubes and devices;

245 4. Smoking and carburetion masks;

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

249 6. Miniature cocaine spoons and cocaine
250 vials;

251 7. Chamber pipes;

252 8. Carburetor pipes;

253 9. Electric pipes;

254 10. Air-driven pipes;

255 11. Chillums;

256 12. Bongs; and

257 13. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

285 (ix) National and local advertising concerning its
286 use;

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

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

293 (xii) Direct or circumstantial evidence of the
294 ratio of sales of the object(s) to the total sales of the business
295 enterprise;

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

298 (xiv) Expert testimony concerning its use.

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

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

304 (y) "Practitioner" means:

305 (1) A physician, dentist, veterinarian, scientific
306 investigator, optometrist certified to prescribe and use
307 therapeutic pharmaceutical agents under Sections 73-19-153 through
308 73-19-165, or other person licensed, registered or otherwise
309 permitted to distribute, dispense, conduct research with respect
310 to or to administer a controlled substance in the course of
311 professional practice or research in this state; and

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

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

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

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

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

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

333 41-29-137. (a) Except when dispensed directly by a
334 practitioner, other than a pharmacy, to an ultimate user, no
335 controlled substance in Schedule II, as set out in Section
336 41-29-115, may be dispensed without the written prescription of a
337 practitioner. A practitioner shall keep a record of all
338 controlled substances in Schedule I, II and III administered,
339 dispensed or professionally used by him otherwise than by
340 prescription.

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

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

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

360 (d) An optometrist certified to prescribe and use
361 therapeutic pharmaceutical agents under Sections 73-19-153 through
362 73-19-165 shall be authorized to prescribe any controlled
363 substance in Schedule III, IV or V that pertains to treatment and

364 management of eye disease, by written prescription only and not to
365 exceed a seventy-two-hour supply. However, an optometrist shall
366 not maintain, store or possess any controlled substances on the
367 premises where the optometrist's practice is located.

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

370 41-29-109. The Mississippi Bureau of Narcotics shall have
371 the full cooperation and use of facilities and personnel of the
372 State Board of Pharmacy, the State Board of Medical Licensure, the
373 State Board of Dental Examiners, the Mississippi Board of Nursing,
374 the State Board of Optometry, the district and county attorneys,
375 and of the Attorney General's office.

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

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

383 41-29-133. Persons registered to manufacture, distribute, or
384 dispense controlled substances under this article shall keep
385 records and maintain inventories in conformance with the
386 record-keeping and inventory requirements of federal law and with
387 any additional rules the State Board of Pharmacy, the State Board
388 of Medical Licensure, the State Board of Dental Examiners, the
389 Mississippi Board of Nursing or the State Board of Optometry may
390 issue.

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

393 41-29-157. (a) Issuance and execution of administrative
394 inspection warrants and search warrants shall be as follows,
395 except as provided in subsection (c) of this section:

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

409 (2) A search warrant shall issue only upon an affidavit
410 of a person having knowledge or information of the facts alleged,
411 sworn to before the judge or justice court judge and establishing
412 the grounds for issuing the warrant. If the judge or justice
413 court judge is satisfied that grounds for the application exist or
414 that there is probable cause to believe they exist, he shall issue
415 a warrant identifying the area, premises, building or conveyance
416 to be searched, the purpose of the search, and, if appropriate,
417 the type of property to be searched, if any. The warrant shall:

418 (A) State the grounds for its issuance and the
419 name of each person whose affidavit has been taken in support
420 thereof;

421 (B) Be directed to a person authorized by Section
422 41-29-159 to execute it;

423 (C) Command the person to whom it is directed to
424 inspect the area, premises, building or conveyance identified for
425 the purpose specified, and if appropriate, direct the seizure of
426 the property specified;

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

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

431 (3) A warrant issued pursuant to this section must be
432 executed and returned within ten (10) days of its date unless,
433 upon a showing of a need for additional time, the court orders
434 otherwise. If property is seized pursuant to a warrant, a copy
435 shall be given to the person from whom or from whose premises the
436 property is taken, together with a receipt for the property taken.
437 The return of the warrant shall be made promptly, accompanied by a
438 written inventory of any property taken. The inventory shall be
439 made in the presence of the person executing the warrant and of
440 the person from whose possession or premises the property was
441 taken, if present, or in the presence of at least one (1) credible
442 person other than the person executing the warrant. A copy of the
443 inventory shall be delivered to the person from whom or from whose
444 premises the property was taken and to the applicant for the
445 warrant;

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

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

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

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

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

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

475 (3) When authorized by an administrative inspection
476 warrant, an officer or employee designated by the Mississippi
477 Bureau of Narcotics, the State Board of Pharmacy, the State Board
478 of Medical Licensure, the State Board of Dental Examiners, the
479 Mississippi Board of Nursing or the State Board of Optometry may:

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

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

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

491 (4) This section does not prevent the inspection
492 without a warrant of books and records pursuant to an
493 administrative subpoena, nor does it prevent entries and

494 administrative inspections, including seizures of property,
495 without a warrant:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

545 41-29-159. (a) Any officer or employee of the Mississippi
546 Bureau of Narcotics, investigative unit of the State Board of
547 Pharmacy, investigative unit of the State Board of Medical
548 Licensure, investigative unit of the State Board of Dental
549 Examiners, investigative unit of the Mississippi Board of Nursing,
550 investigative unit of the State Board of Optometry, any duly sworn
551 peace officer of the State of Mississippi, any enforcement officer
552 of the Mississippi Department of Transportation, or any highway
553 patrolman, may, while engaged in the performance of his statutory
554 duties:

555 (1) Carry firearms;

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

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

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

563 (b) As divided among the Mississippi Bureau of Narcotics,
564 the State Board of Pharmacy, the State Board of Medical Licensure,
565 the State Board of Dental Examiners, the Mississippi Board of
566 Nursing and the State Board of Optometry, the primary
567 responsibility of the illicit street traffic or other illicit
568 traffic of drugs is delegated to agents of the Mississippi Bureau
569 of Narcotics. The State Board of Pharmacy is delegated the
570 responsibility of regulating and checking the legitimate drug
571 traffic among pharmacists, pharmacies, hospitals, nursing homes,
572 drug manufacturers, and any other related professions and
573 facilities with the exception of the medical, dental, nursing,
574 optometric and veterinary professions. The State Board of Medical
575 Licensure is responsible for regulating and checking the
576 legitimate drug traffic among physicians, podiatrists and
577 veterinarians. The Mississippi Board of Dental Examiners is
578 responsible for regulating and checking the legitimate drug
579 traffic among dentists and dental hygienists. The Mississippi
580 Board of Nursing is responsible for regulating and checking the
581 legitimate drug traffic among nurses. The State Board of
582 Optometry is responsible for regulating and checking the
583 legitimate drug traffic among optometrists.

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

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

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

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

601 41-29-167. (a) The State Board of Medical Licensure, the
602 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the
603 State Board of Dental Examiners, the Mississippi Board of Nursing
604 and the State Board of Optometry shall cooperate with federal and
605 other state agencies in discharging their responsibilities
606 concerning traffic in controlled substances and in suppressing the
607 abuse of controlled substances. To this end, they may:

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

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

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

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

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

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

634 41-29-171. (a) The Mississippi Bureau of Narcotics, the
635 State Board of Pharmacy, the State Board of Medical Licensure, the
636 State Board of Dental Examiners, the Mississippi Board of Nursing
637 and the State Board of Optometry shall encourage research on
638 misuse and abuse of controlled substances. In connection with the
639 research, and in furtherance of the enforcement of this article
640 they may:

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

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

645 (A) Develop new or improved approaches,
646 techniques, systems, equipment and devices to strengthen the
647 enforcement of this article;

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

650 (C) Improve methods for preventing, predicting,
651 understanding and dealing with the misuse and abuse of controlled
652 substances;

653 (3) Enter into contracts with public agencies,
654 institutions of higher education, and private organizations or
655 individuals for the purpose of conducting research,

656 demonstrations, or special projects which bear directly on misuse
657 and abuse of controlled substances.

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

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

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

668 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33
669 through 73-19-45, which create the Mississippi Board of Optometry
670 and prescribe its duties and powers, shall stand repealed as of
671 July 1, 2015.

672 **SECTION 13.** This act shall take effect and be in force from
673 and after July 1, 2005.