

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2319

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 TOPICAL  
 5 THERAPEUTIC PHARMACEUTICAL AGENTS TO ADMINISTER AND PRESCRIBE ANY  
 6 ORAL 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 ORDER RADIOLOGICAL AND  
 9 LABORATORY TESTS RATIONAL TO THE DIAGNOSIS OF CONDITIONS OR  
 10 DISEASES OF THE EYE; TO AMEND SECTION 73-19-165, MISSISSIPPI CODE  
 11 OF 1972, IN CONFORMITY TO THE PRECEDING SECTION; TO AMEND SECTION  
 12 41-29-105, MISSISSIPPI CODE OF 1972, TO DEFINE THOSE CERTIFIED  
 13 OPTOMETRISTS AS "PRACTITIONERS" UNDER THE UNIFORM CONTROLLED  
 14 SUBSTANCES LAW; TO AMEND SECTION 41-29-137, MISSISSIPPI CODE OF  
 15 1972, TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PRESCRIBE ORAL  
 16 ANALGESIC CONTROLLED SUBSTANCES IN SCHEDULE III, IV OR V, AS  
 17 PERTAINS TO TREATMENT AND MANAGEMENT OF EYE DISEASE BY WRITTEN  
 18 PRESCRIPTION ONLY, AND NOT TO EXCEED A 72-HOUR SUPPLY; TO AMEND  
 19 SECTIONS 41-29-109, 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND  
 20 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE  
 21 BOARD OF OPTOMETRY IS RESPONSIBLE FOR THE CERTIFICATION OF  
 22 OPTOMETRISTS PRESCRIBING ORAL PHARMACEUTICAL AGENTS AND THE  
 23 REGULATION OF THE USE OF ORAL PHARMACEUTICAL AGENTS BY CERTIFIED  
 24 OPTOMETRISTS; TO AMEND SECTION 73-19-31, MISSISSIPPI CODE OF 1972,  
 25 TO EXTEND THE AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND  
 26 EMPOWERING THE STATE BOARD 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. \* \* \* Nothing in this  
42 section or any other provision of law shall be construed to  
43 prohibit optometrists who have been certified under Sections  
44 73-19-153 through 73-19-165 from performing any procedure under  
45 present law, or that has previously been approved by the State  
46 Board of Optometry, or from providing postophthalmic surgical or  
47 clinical care and management with the advice and consultation of  
48 the operating or treating physician.

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

51 73-19-157. \* \* \* Any optometrist certified to prescribe and  
52 use therapeutic pharmaceutical agents under Sections 73-19-153  
53 through 73-19-165 is authorized to examine, diagnose, manage and  
54 treat visual defects, abnormal conditions and diseases of the  
55 human eye or ocular-related structures, including:

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

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

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

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

67 73-19-165. Any pharmacist licensed under the laws of the  
68 State of Mississippi is authorized to fill and dispense \* \* \*  
69 therapeutic pharmaceutical agents \* \* \* to patients for any  
70 optometrist certified by the State Board of Optometry to use those  
71 agents.

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

74           41-29-105. The following words and phrases, as used in this  
75 article, shall have the following meanings, unless the context  
76 otherwise requires:

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

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

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

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

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

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

97           (e) "Commissioner" means the Commissioner of the  
98 Department of Public Safety.

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

102           (g) "Counterfeit substance" means a controlled  
103 substance which, or the container or labeling of which, without  
104 authorization, bears the trademark, trade name, or other

105 identifying mark, imprint, number or device, or any likeness  
106 thereof, of a manufacturer, distributor or dispenser other than  
107 the person who in fact manufactured, distributed or dispensed the  
108 substance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

175                   (3) Opium poppy and poppy straw; and

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

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

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

192                   (v) "Paraphernalia" means all equipment, products and  
193 materials of any kind which are used, intended for use, or  
194 designed for use, in planting, propagating, cultivating, growing,  
195 harvesting, manufacturing, compounding, converting, producing,  
196 processing, preparing, testing, analyzing, packaging, repackaging,  
197 storing, containing, concealing, injecting, ingesting, inhaling or  
198 otherwise introducing into the human body a controlled substance  
199 in violation of the Uniform Controlled Substances Law. It  
200 includes, but is not limited to:

201                   (i) Kits used, intended for use, or designed for  
202 use in planting, propagating, cultivating, growing or harvesting

203 of any species of plant which is a controlled substance or from  
204 which a controlled substance can be derived;

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

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

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

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

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

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

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

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

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

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

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

- 238 1. Metal, wooden, acrylic, glass, stone,  
239 plastic or ceramic pipes with or without screens, permanent  
240 screens, hashish heads or punctured metal bowls;
- 241 2. Water pipes;
- 242 3. Carburetion tubes and devices;
- 243 4. Smoking and carburetion masks;
- 244 5. Roach clips, meaning objects used to hold  
245 burning material, such as a marihuana cigarette, that has become  
246 too small or too short to be held in the hand;
- 247 6. Miniature cocaine spoons and cocaine  
248 vials;
- 249 7. Chamber pipes;
- 250 8. Carburetor pipes;
- 251 9. Electric pipes;
- 252 10. Air-driven pipes;
- 253 11. Chillums;
- 254 12. Bongs; and
- 255 13. Ice pipes or chillers.

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

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

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

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



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

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

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

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

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

283 (ix) National and local advertising concerning its  
284 use;

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

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

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

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

296 (xiv) Expert testimony concerning its use.

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

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

302 (y) "Practitioner" means:

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

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

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

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

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

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

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

331 41-29-137. (a) Except when dispensed directly by a  
332 practitioner, other than a pharmacy, to an ultimate user, no

333 controlled substance in Schedule II, as set out in Section  
334 41-29-115, may be dispensed without the written prescription of a  
335 practitioner. A practitioner shall keep a record of all  
336 controlled substances in Schedule I, II and III administered,  
337 dispensed or professionally used by him otherwise than by  
338 prescription.

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

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

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

358 (d) An optometrist certified to prescribe and use  
359 therapeutic pharmaceutical agents under Sections 73-19-153 through  
360 73-19-165 shall be authorized to prescribe oral analgesic  
361 controlled substances in Schedule III, IV or V, as pertains to  
362 treatment and management of eye disease by written prescription  
363 only, not to exceed a seventy-two-hour supply. However, an  
364 optometrist shall not maintain, store or possess any controlled

365 substances on the premises where the optometrist's practice is  
366 located.

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

369 41-29-109. The Mississippi Bureau of Narcotics shall have  
370 the full cooperation and use of facilities and personnel of the  
371 State Board of Pharmacy, the State Board of Medical Licensure, the  
372 State Board of Dental Examiners, the Mississippi Board of Nursing,  
373 the State Board of Optometry, the district and county attorneys,  
374 and of the Attorney General's office.

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

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

382 41-29-133. Persons registered to manufacture, distribute or  
383 dispense controlled substances under this article shall keep  
384 records and maintain inventories in conformance with the  
385 record-keeping and inventory requirements of federal law and with  
386 any additional rules the State Board of Pharmacy, the State Board  
387 of Medical Licensure, the State Board of Dental Examiners, the  
388 Mississippi Board of Nursing or the State Board of Optometry may  
389 issue.

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

392 41-29-157. (a) Issuance and execution of administrative  
393 inspection warrants and search warrants shall be as follows,  
394 except as provided in subsection (c) of this section:

395 (1) A judge of any state court of record, or any  
396 justice court judge within his jurisdiction, and upon proper oath  
397 or affirmation showing probable cause, may issue warrants for the

398 purpose of conducting administrative inspections authorized by  
399 this article or rules thereunder, and seizures of property  
400 appropriate to the inspections. For purposes of the issuance of  
401 administrative inspection warrants, probable cause exists upon  
402 showing a valid public interest in the effective enforcement of  
403 this article or rules thereunder, sufficient to justify  
404 administrative inspection of the area, premises, building or  
405 conveyance in the circumstances specified in the application for  
406 the warrant. All such warrants shall be served during normal  
407 business hours;

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

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

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

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

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

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

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

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

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

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

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

460                   (B) Places including factories, warehouses,  
461 establishments and conveyances in which persons registered or  
462 exempted from registration requirements under this article are

463 permitted to hold, manufacture, compound, process, sell, deliver,  
464 or otherwise dispose of any controlled substance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

544 41-29-159. (a) Any officer or employee of the Mississippi  
545 Bureau of Narcotics, investigative unit of the State Board of  
546 Pharmacy, investigative unit of the State Board of Medical  
547 Licensure, investigative unit of the State Board of Dental  
548 Examiners, investigative unit of the Mississippi Board of Nursing,  
549 investigative unit of the State Board of Optometry, any duly sworn  
550 peace officer of the State of Mississippi, any enforcement officer  
551 of the Mississippi Department of Transportation, or any highway  
552 patrolman, may, while engaged in the performance of his statutory  
553 duties:

554 (1) Carry firearms;

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

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

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

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

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

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

590 (e) Any person who shall impersonate in any way the director  
591 or any agent, or who shall in any manner hold himself out as  
592 being, or represent himself as being, an officer or agent of the  
593 Mississippi Bureau of Narcotics shall be guilty of a misdemeanor,

594 and upon conviction thereof shall be punished by a fine of not  
595 less than One Hundred Dollars (\$100.00) nor more than Five Hundred  
596 Dollars (\$500.00) or by imprisonment for not more than one (1)  
597 year, or by both such fine and imprisonment.

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

600         41-29-167. (a) The State Board of Medical Licensure, the  
601 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
602 State Board of Dental Examiners, the Mississippi Board of Nursing  
603 and the State Board of Optometry shall cooperate with federal and  
604 other state agencies in discharging their responsibilities  
605 concerning traffic in controlled substances and in suppressing the  
606 abuse of controlled substances. To this end, they may:

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

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

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

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

622         (b) Results, information and evidence received from the  
623 United States Drug Enforcement Administration relating to the  
624 regulatory functions of this article, including results of  
625 inspections conducted by it may be relied and acted upon by the  
626 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the

627 State Board of Medical Licensure, the State Board of Dental  
628 Examiners, the Mississippi Board of Nursing and the State Board of  
629 Optometry in the exercise of their regulatory functions under this  
630 article.

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

633 41-29-171. (a) The Mississippi Bureau of Narcotics, the  
634 State Board of Pharmacy, the State Board of Medical Licensure,  
635 the State Board of Dental Examiners, the Mississippi Board of  
636 Nursing and the State Board of Optometry shall encourage research  
637 on misuse and abuse of controlled substances. In connection with  
638 the research, and in furtherance of the enforcement of this  
639 article they may:

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

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

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

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

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

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

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

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

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

667 73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33  
668 through 73-19-45, which create the Mississippi Board of Optometry  
669 and prescribe its duties and powers, shall stand repealed as of  
670 July 1, 2009.

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