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To: Public Health and  
 Welfare

COMMITTEE SUBSTITUTE  
 FOR  
 SENATE BILL NO. 2682

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 CERTAIN  
 5 NONINJECTIBLE MEDICATIONS, CERTAIN ORAL PHARMACEUTICAL AGENTS AND  
 6 TO ADMINISTER AN AUTO INJECTION TO COUNTERACT ANAPHYLACTIC  
 7 REACTIONS; TO AMEND SECTION 73-19-165, MISSISSIPPI CODE OF 1972,  
 8 IN CONFORMITY TO THE PRECEDING SECTION; TO AMEND SECTION  
 9 41-29-105, MISSISSIPPI CODE OF 1972, TO DEFINE THOSE CERTIFIED  
 10 OPTOMETRISTS AS "PRACTITIONERS" UNDER THE UNIFORM CONTROLLED  
 11 SUBSTANCES LAW; TO AMEND SECTION 41-29-137, MISSISSIPPI CODE OF  
 12 1972, TO AUTHORIZE THOSE CERTIFIED OPTOMETRISTS TO PRESCRIBE ORAL  
 13 ANALGESIC CONTROLLED SUBSTANCES IN SCHEDULE IV OR V, AS PERTAINS  
 14 TO TREATMENT AND MANAGEMENT OF EYE DISEASE BY WRITTEN PRESCRIPTION  
 15 ONLY, AND TO PROHIBIT INJECTION OF ANY PHARMACEUTICAL BY AN  
 16 OPTOMETRIST; TO AMEND SECTIONS 41-29-109, 41-29-133, 41-29-157,  
 17 41-29-159, 41-29-167 AND 41-29-171, MISSISSIPPI CODE OF 1972, TO  
 18 PROVIDE THAT THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR THE  
 19 CERTIFICATION OF OPTOMETRISTS PRESCRIBING ORAL PHARMACEUTICAL  
 20 AGENTS AND THE REGULATION OF THE USE OF ORAL PHARMACEUTICAL AGENTS  
 21 BY CERTIFIED OPTOMETRISTS; TO REPEAL SECTION 73-19-31, MISSISSIPPI  
 22 CODE OF 1972, WHICH IS THE AUTOMATIC REPEALER ON THOSE STATUTES  
 23 CREATING AND EMPOWERING THE STATE BOARD OF OPTOMETRY; AND FOR  
 24 RELATED PURPOSES.

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

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

28 73-19-1. (1) The practice of optometry is defined to be the  
 29 application of optical principles, through technical methods and  
 30 devices in the examination of human eyes for the purpose of  
 31 ascertaining departures from the normal, measuring their  
 32 functional powers and adapting or prescribing optical accessories,  
 33 including spectacles, contact lenses and low-vision devices, for  
 34 the aid thereof, including, but not limited to, the use of  
 35 computerized or automated refracting devices, lenses and prisms,  
 36 vision therapy and low-vision rehabilitation therapy. The  
 37 practice of optometry shall include the prescribing and use of  
 38 therapeutic pharmaceutical agents by optometrists certified under

39 Sections 73-19-153 through 73-19-165. The practice of optometry  
40 shall not include the performing of any invasive surgery including  
41 laser surgery, but shall not preclude the removal of superficial  
42 foreign bodies from the eye or other noninvasive procedures.  
43 Nothing in this section or any other provision of law shall be  
44 construed to prohibit optometrists who have been certified under  
45 Sections 73-19-153 through 73-19-165 from providing postophthalmic  
46 surgical or clinical care and management with the advice and  
47 consultation of the operating or treating physician.

48 (2) Nothing in Senate Bill No. 2682, 2005 Regular Session,  
49 shall be construed or interpreted to allow any optometrist to  
50 treat systemic diseases and/or conditions.

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

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

58 (a) Topical pharmaceutical agents; \* \* \*

59 (b) Over-the-counter medications;

60 (c) The administration and prescribing of all  
61 noninjectible medications listed in the current annual edition of  
62 the "Physicians Desk Reference for Ophthalmic Medicines" which are  
63 rational and appropriate for the examination, diagnosis,  
64 management or treatment of visual defects, abnormal conditions or  
65 diseases of the eye and/or eyelids for proper optometric practice;

66 (d) The administration and prescribing of oral  
67 pharmaceutical agents to treat glaucoma; oral antibiotic  
68 medications; oral nonsteroidal anti-inflammatory (NSAIDS)  
69 medications; over-the-counter allergy medications; and oral  
70 medications to treat viral infections, all of which must be used  
71 solely for the rational and appropriate examination, diagnosis,

72 management or treatment of visual defects, abnormal conditions of  
73 the eye and/or eyelids for proper optometric practice; and  
74 (e) The administration of an auto injection or epi-pen  
75 to counteract anaphylactic reaction, followed by immediate  
76 referral of the patient to the nearest emergency medical facility.

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

79 73-19-165. Any pharmacist licensed under the laws of the  
80 State of Mississippi is authorized to fill and dispense to  
81 patients those therapeutic pharmaceutical agents specified in  
82 Section 73-19-157 for any optometrist certified by the State Board  
83 of Optometry to use such agents.

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

86 41-29-105. The following words and phrases, as used in this  
87 article, shall have the following meanings, unless the context  
88 otherwise requires:

89 (a) "Administer" means the direct application of a  
90 controlled substance, whether by injection, inhalation, ingestion  
91 or any other means, to the body of a patient or research subject  
92 by:

93 (1) A practitioner (or, in his presence, by his  
94 authorized agent); or

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

97 (b) "Agent" means an authorized person who acts on  
98 behalf of or at the direction of a manufacturer, distributor or  
99 dispenser. Such word does not include a common or contract  
100 carrier, public warehouseman or employee of the carrier or  
101 warehouseman. This definition shall not be applied to the term  
102 "agent" when such term clearly designates a member or officer of  
103 the Bureau of Narcotics or other law enforcement organization.

104           (c) "Board" means the Mississippi State Board of  
105 Medical Licensure.

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

109           (e) "Commissioner" means the Commissioner of the  
110 Department of Public Safety.

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

114           (g) "Counterfeit substance" means a controlled  
115 substance which, or the container or labeling of which, without  
116 authorization, bears the trademark, trade name, or other  
117 identifying mark, imprint, number or device, or any likeness  
118 thereof, of a manufacturer, distributor or dispenser other than  
119 the person who in fact manufactured, distributed or dispensed the  
120 substance.

121           (h) "Deliver" or "delivery" means the actual,  
122 constructive, or attempted transfer from one person to another of  
123 a controlled substance, whether or not there is an agency  
124 relationship.

125           (i) "Director" means the Director of the Bureau of  
126 Narcotics.

127           (j) "Dispense" means to deliver a controlled substance  
128 to an ultimate user or research subject by or pursuant to the  
129 lawful order of a practitioner, including the prescribing,  
130 administering, packaging, labeling or compounding necessary to  
131 prepare the substance for that delivery.

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

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

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

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

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

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

156           (q) "Manufacture" means the production, preparation,  
157 propagation, compounding, conversion or processing of a controlled  
158 substance, either directly or indirectly, by extraction from  
159 substances of natural origin, or independently by means of  
160 chemical synthesis, or by a combination of extraction and chemical  
161 synthesis, and includes any packaging or repackaging of the  
162 substance or labeling or relabeling of its container. The term  
163 "manufacture" does not include the preparation, compounding,  
164 packaging or labeling of a controlled substance in conformity with  
165 applicable state and local law:

166           (1) By a practitioner as an incident to his  
167 administering or dispensing of a controlled substance in the  
168 course of his professional practice; or

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

172                   (r) "Marihuana" means all parts of the plant of the  
173 genus Cannabis and all species thereof, whether growing or not,  
174 the seeds thereof, and every compound, manufacture, salt,  
175 derivative, mixture or preparation of the plant or its seeds,  
176 excluding hashish.

177                   (s) "Narcotic drug" means any of the following, whether  
178 produced directly or indirectly by extraction from substances of  
179 vegetable origin, or independently by means of chemical synthesis,  
180 or by a combination of extraction and chemical synthesis:

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

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

187                   (3) Opium poppy and poppy straw; and

188                   (4) Cocaine, coca leaves and any salt, compound,  
189 derivative or preparation of cocaine, coca leaves, and any salt,  
190 compound, isomer, derivative or preparation thereof which is  
191 chemically equivalent or identical with any of these substances,  
192 but not including decocainized coca leaves or extractions of coca  
193 leaves which do not contain cocaine or ecgonine.

194                   (t) "Opiate" means any substance having an  
195 addiction-forming or addiction-sustaining liability similar to  
196 morphine or being capable of conversion into a drug having  
197 addiction-forming or addiction-sustaining liability. It does not  
198 include, unless specifically designated as controlled under  
199 Section 41-29-111, the dextrorotatory isomer of  
200 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
201 Such word does include its racemic and levorotatory forms.

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

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

213 (i) Kits used, intended for use, or designed for  
214 use in planting, propagating, cultivating, growing or harvesting  
215 of any species of plant which is a controlled substance or from  
216 which a controlled substance can be derived;

217 (ii) Kits used, intended for use, or designed for  
218 use in manufacturing, compounding, converting, producing,  
219 processing or preparing controlled substances;

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

223 (iv) Testing equipment used, intended for use, or  
224 designed for use in identifying or in analyzing the strength,  
225 effectiveness or purity of controlled substances;

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

228 (vi) Diluents and adulterants, such as quinine  
229 hydrochloride, mannitol, mannite, dextrose and lactose, used,  
230 intended for use or designed for use in cutting controlled  
231 substances;

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

- 235 (viii) Blenders, bowls, containers, spoons and  
236 mixing devices used, intended for use or designed for use in  
237 compounding controlled substances;
- 238 (ix) Capsules, balloons, envelopes and other  
239 containers used, intended for use or designed for use in packaging  
240 small quantities of controlled substances;
- 241 (x) Containers and other objects used, intended  
242 for use or designed for use in storing or concealing controlled  
243 substances;
- 244 (xi) Hypodermic syringes, needles and other  
245 objects used, intended for use or designed for use in parenterally  
246 injecting controlled substances into the human body;
- 247 (xii) Objects used, intended for use or designed  
248 for use in ingesting, inhaling or otherwise introducing marihuana,  
249 cocaine, hashish or hashish oil into the human body, such as:
- 250 1. Metal, wooden, acrylic, glass, stone,  
251 plastic or ceramic pipes with or without screens, permanent  
252 screens, hashish heads or punctured metal bowls;
  - 253 2. Water pipes;
  - 254 3. Carburetion tubes and devices;
  - 255 4. Smoking and carburetion masks;
  - 256 5. Roach clips, meaning objects used to hold  
257 burning material, such as a marihuana cigarette, that has become  
258 too small or too short to be held in the hand;
  - 259 6. Miniature cocaine spoons and cocaine  
260 vials;
  - 261 7. Chamber pipes;
  - 262 8. Carburetor pipes;
  - 263 9. Electric pipes;
  - 264 10. Air-driven pipes;
  - 265 11. Chillums;
  - 266 12. Bongs; and
  - 267 13. Ice pipes or chillers.



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

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

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

276 (iii) The proximity of the object, in time and  
277 space, to a direct violation of the Uniform Controlled Substances  
278 Law;

279 (iv) The proximity of the object to controlled  
280 substances;

281 (v) The existence of any residue of controlled  
282 substances on the object;

283 (vi) Direct or circumstantial evidence of the  
284 intent of an owner, or of anyone in control of the object, to  
285 deliver it to persons whom he knows, or should reasonably know,  
286 intend to use the object to facilitate a violation of the Uniform  
287 Controlled Substances Law; the innocence of an owner, or of anyone  
288 in control of the object, as to a direct violation of the Uniform  
289 Controlled Substances Law shall not prevent a finding that the  
290 object is intended for use, or designed for use as paraphernalia;

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

293 (viii) Descriptive materials accompanying the  
294 object which explain or depict its use;

295 (ix) National and local advertising concerning its  
296 use;

297 (x) The manner in which the object is displayed  
298 for sale;

299 (xi) Whether the owner or anyone in control of the  
300 object is a legitimate supplier of like or related items to the

301 community, such as a licensed distributor or dealer of tobacco  
302 products;

303 (xii) Direct or circumstantial evidence of the  
304 ratio of sales of the object(s) to the total sales of the business  
305 enterprise;

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

308 (xiv) Expert testimony concerning its use.

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

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

314 (y) "Practitioner" means:

315 (1) A physician, dentist, veterinarian, scientific  
316 investigator, optometrist certified to prescribe and use  
317 therapeutic pharmaceutical agents under Sections 73-19-153 through  
318 73-19-165, or other person licensed, registered or otherwise  
319 permitted to distribute, dispense, conduct research with respect  
320 to or to administer a controlled substance in the course of  
321 professional practice or research in this state; and

322 (2) A pharmacy, hospital or other institution  
323 licensed, registered, or otherwise permitted to distribute,  
324 dispense, conduct research with respect to or to administer a  
325 controlled substance in the course of professional practice or  
326 research in this state.

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

329 (aa) "Sale," "sell" or "selling" means the actual,  
330 constructive or attempted transfer or delivery of a controlled  
331 substance for remuneration, whether in money or other  
332 consideration.

333 (bb) "State," when applied to a part of the United  
334 States, includes any state, district, commonwealth, territory,  
335 insular possession thereof, and any area subject to the legal  
336 authority of the United States of America.

337 (cc) "Ultimate user" means a person who lawfully  
338 possesses a controlled substance for his own use or for the use of  
339 a member of his household or for administering to an animal owned  
340 by him or by a member of his household.

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

343 41-29-137. (a) Except when dispensed directly by a  
344 practitioner, other than a pharmacy, to an ultimate user, no  
345 controlled substance in Schedule II, as set out in Section  
346 41-29-115, may be dispensed without the written prescription of a  
347 practitioner. A practitioner shall keep a record of all  
348 controlled substances in Schedule I, II and III administered,  
349 dispensed or professionally used by him otherwise than by  
350 prescription.

351 In emergency situations, as defined by rule of the State  
352 Board of Pharmacy, said Schedule II drugs may be dispensed upon  
353 oral prescription of a practitioner, reduced promptly to writing  
354 and filed by the pharmacy. Prescriptions shall be retained in  
355 conformity with the requirements of Section 41-29-133. No  
356 prescription for a Schedule II substance may be refilled unless  
357 renewed by prescription issued by a licensed medical doctor.

358 (b) Except when dispensed directly by a practitioner, other  
359 than a pharmacy, to an ultimate user, a controlled substance  
360 included in Schedule III or IV, as set out in Sections 41-29-117  
361 and 41-29-119, which is a prescription drug as determined under  
362 Federal Control Substances Act, shall not be dispensed without a  
363 written or oral prescription of a practitioner. The prescription  
364 shall not be filled or refilled more than six (6) months after the

365 date thereof or be refilled more than five (5) times, unless  
366 renewed by the practitioner.

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

370 (d) An optometrist certified to prescribe and use  
371 therapeutic pharmaceutical agents under Sections 73-19-153 through  
372 73-19-165 shall be authorized to prescribe oral analgesic  
373 controlled substances in Schedule IV or V, as pertains to  
374 treatment and management of eye disease by written prescription  
375 only.

376 (e) Administration by injection of any pharmaceutical  
377 product authorized in this section is expressly prohibited.

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

380 41-29-109. The Mississippi Bureau of Narcotics shall have  
381 the full cooperation and use of facilities and personnel of the  
382 State Board of Pharmacy, the State Board of Medical Licensure, the  
383 State Board of Dental Examiners, the Mississippi Board of Nursing,  
384 the State Board of Optometry, the district and county attorneys,  
385 and of the Attorney General's office.

386 It shall be the duty of all duly sworn peace officers of the  
387 State of Mississippi to enforce the provisions of this article  
388 with reference to illicit narcotic and drug traffic. The  
389 provisions of this article may likewise be enforced by agents of  
390 the United States Drug Enforcement Administration.

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

393 41-29-133. Persons registered to manufacture, distribute or  
394 dispense controlled substances under this article shall keep  
395 records and maintain inventories in conformance with the  
396 record-keeping and inventory requirements of federal law and with  
397 any additional rules the State Board of Pharmacy, the State Board

398 of Medical Licensure, the State Board of Dental Examiners, the  
399 Mississippi Board of Nursing or the State Board of Optometry may  
400 issue.

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

403 41-29-157. (a) Issuance and execution of administrative  
404 inspection warrants and search warrants shall be as follows,  
405 except as provided in subsection (c) of this section:

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

419 (2) A search warrant shall issue only upon an affidavit  
420 of a person having knowledge or information of the facts alleged,  
421 sworn to before the judge or justice court judge and establishing  
422 the grounds for issuing the warrant. If the judge or justice  
423 court judge is satisfied that grounds for the application exist or  
424 that there is probable cause to believe they exist, he shall issue  
425 a warrant identifying the area, premises, building or conveyance  
426 to be searched, the purpose of the search, and, if appropriate,  
427 the type of property to be searched, if any. The warrant shall:

428 (A) State the grounds for its issuance and the  
429 name of each person whose affidavit has been taken in support  
430 thereof;

431 (B) Be directed to a person authorized by Section  
432 41-29-159 to execute it;

433 (C) Command the person to whom it is directed to  
434 inspect the area, premises, building or conveyance identified for  
435 the purpose specified, and if appropriate, direct the seizure of  
436 the property specified;

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

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

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

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

461 (b) The Mississippi Bureau of Narcotics, the State Board of  
462 Pharmacy, the State Board of Medical Licensure, the State Board of  
463 Dental Examiners, the Mississippi Board of Nursing or the State

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

466 (1) For purposes of this section only, "controlled  
467 premises" means:

468 (A) Places where persons registered or exempted  
469 from registration requirements under this article are required to  
470 keep records; and

471 (B) Places including factories, warehouses,  
472 establishments and conveyances in which persons registered or  
473 exempted from registration requirements under this article are  
474 permitted to hold, manufacture, compound, process, sell, deliver,  
475 or otherwise dispose of any controlled substance.

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

485 (3) When authorized by an administrative inspection  
486 warrant, an officer or employee designated by the Mississippi  
487 Bureau of Narcotics, the State Board of Pharmacy, the State Board  
488 of Medical Licensure, the State Board of Dental Examiners, the  
489 Mississippi Board of Nursing or the State Board of Optometry may:

490 (A) Inspect and copy records required by this  
491 article to be kept;

492 (B) Inspect, within reasonable limits and in a  
493 reasonable manner, controlled premises and all pertinent  
494 equipment, finished and unfinished material, containers and  
495 labeling found therein, and, except as provided in paragraph (5)  
496 of this subsection, all other things therein, including records,

497 files, papers, processes, controls and facilities bearing on  
498 violation of this article; and

499 (C) Inventory any stock of any controlled  
500 substance therein and obtain samples thereof.

501 (4) This section does not prevent the inspection  
502 without a warrant of books and records pursuant to an  
503 administrative subpoena, nor does it prevent entries and  
504 administrative inspections, including seizures of property,  
505 without a warrant:

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

508 (B) In situations presenting imminent danger to  
509 health or safety;

510 (C) In situations involving inspection of  
511 conveyances if there is reasonable cause to believe that the  
512 mobility of the conveyance makes it impracticable to obtain a  
513 warrant;

514 (D) In any other exceptional or emergency  
515 circumstance where time or opportunity to apply for a warrant is  
516 lacking; or

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

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

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



529 (1) Is satisfied that there is probable cause to  
530 believe that:

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

533 (B) The giving of such notice will immediately  
534 endanger the life or safety of the executing officer or another  
535 person; and

536 (2) Has included in the warrant a direction that the  
537 officer executing the warrant shall not be required to give such  
538 notice.

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

542 Search warrants which include the instruction that the  
543 executing officer shall not be required to give notice of  
544 authority and purpose as authorized by this subsection shall be  
545 issued only by the county court or county judge in vacation,  
546 chancery court or by the chancellor in vacation, by the circuit  
547 court or circuit judge in vacation, or by a justice of the  
548 Mississippi Supreme Court.

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

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

555 41-29-159. (a) Any officer or employee of the Mississippi  
556 Bureau of Narcotics, investigative unit of the State Board of  
557 Pharmacy, investigative unit of the State Board of Medical  
558 Licensure, investigative unit of the State Board of Dental  
559 Examiners, investigative unit of the Mississippi Board of Nursing,  
560 investigative unit of the State Board of Optometry, any duly sworn  
561 peace officer of the State of Mississippi, any enforcement officer

562 of the Mississippi Department of Transportation, or any highway  
563 patrolman, may, while engaged in the performance of his statutory  
564 duties:

565 (1) Carry firearms;

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

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

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

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

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

598 (d) Agents of the bureau are authorized to investigate the  
599 circumstances of deaths which are caused by drug overdose or which  
600 are believed to be caused by drug overdose.

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

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

611 41-29-167. (a) The State Board of Medical Licensure, the  
612 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
613 State Board of Dental Examiners, the Mississippi Board of Nursing  
614 and the State Board of Optometry shall cooperate with federal and  
615 other state agencies in discharging their responsibilities  
616 concerning traffic in controlled substances and in suppressing the  
617 abuse of controlled substances. To this end, they may:

618 (1) Arrange for the exchange of information among  
619 governmental officials concerning the use and abuse of controlled  
620 substances;

621 (2) Coordinate and cooperate in training programs  
622 concerning controlled substance law enforcement at local and state  
623 levels;

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

627 dependent persons and other controlled substance law offenders  
628 within the state, and make the information available for federal,  
629 state and local law enforcement purposes; and

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

633 (b) Results, information and evidence received from the  
634 United States Drug Enforcement Administration relating to the  
635 regulatory functions of this article, including results of  
636 inspections conducted by it may be relied and acted upon by the  
637 Mississippi Bureau of Narcotics, the State Board of Pharmacy, the  
638 State Board of Medical Licensure, the State Board of Dental  
639 Examiners, the Mississippi Board of Nursing and the State Board of  
640 Optometry in the exercise of their regulatory functions under this  
641 article.

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

644 41-29-171. (a) The Mississippi Bureau of Narcotics, the  
645 State Board of Pharmacy, the State Board of Medical Licensure,  
646 the State Board of Dental Examiners, the Mississippi Board of  
647 Nursing and the State Board of Optometry shall encourage research  
648 on misuse and abuse of controlled substances. In connection with  
649 the research, and in furtherance of the enforcement of this  
650 article they may:

651 (1) Establish methods to assess accurately the effects  
652 of controlled substances and identify and characterize those with  
653 potential for abuse;

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

655 (A) Develop new or improved approaches,  
656 techniques, systems, equipment and devices to strengthen the  
657 enforcement of this article;

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

660                   (C) Improve methods for preventing, predicting,  
661 understanding and dealing with the misuse and abuse of controlled  
662 substances;

663                   (3) Enter into contracts with public agencies,  
664 institutions of higher education, and private organizations or  
665 individuals for the purpose of conducting research,  
666 demonstrations, or special projects which bear directly on misuse  
667 and abuse of controlled substances.

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

671                   (c) The board may authorize the possession and distribution  
672 of controlled substances by persons engaged in research. Persons  
673 who obtain this authorization are exempt from state prosecution  
674 for possession and distribution of controlled substances to the  
675 extent of the authorization.

676                   **SECTION 12.** Section 73-19-31, Mississippi Code of 1972,  
677 which is the automatic repealer on those statutes which create the  
678 Mississippi Board of Optometry and prescribe its duties and  
679 powers, is hereby repealed.

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