

By: Senator(s) Minor

To: Public Health and Welfare

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2648

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 ADMINISTER  
5 PHARMACEUTICAL AGENTS AS LISTED IN THE OPTOMETRIC FORMULARY; TO  
6 PROVIDE FOR ADDITIONS TO THE OPTOMETRIC FORMULARY BY A BOARD  
7 CONSISTING OF REPRESENTATIVES FROM THE STATE BOARD OF OPTOMETRY,  
8 THE STATE MEDICAL LICENSURE BOARD AND THE STATE BOARD OF PHARMACY;  
9 TO AUTHORIZE OPTOMETRISTS WHO HAVE BEEN CERTIFIED TO PERFORM  
10 PRIMARY EYE CARE PROCEDURES LIMITED TO CERTAIN CODES OF THE  
11 AMERICAN MEDICAL ASSOCIATION; TO PROVIDE THAT THERAPEUTICALLY  
12 CERTIFIED OPTOMETRISTS SHALL BE HELD TO THE SAME STANDARDS OF CARE  
13 AS PHYSICIANS AND DENTISTS; TO REQUIRE THERAPEUTICALLY CERTIFIED  
14 OPTOMETRISTS TO PROVIDE 24-HOUR COVERAGE; TO REQUIRE  
15 THERAPEUTICALLY CERTIFIED OPTOMETRISTS TO CARRY MALPRACTICE  
16 INSURANCE IN CERTAIN AMOUNTS; TO AMEND SECTION 73-19-165,  
17 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTION;  
18 TO AMEND SECTION 41-29-105, MISSISSIPPI CODE OF 1972, TO DEFINE  
19 THOSE CERTIFIED OPTOMETRISTS AS "PRACTITIONERS" UNDER THE UNIFORM  
20 CONTROLLED SUBSTANCES LAW; TO AMEND SECTION 41-29-137, MISSISSIPPI  
21 CODE OF 1972, TO PROHIBIT THOSE CERTIFIED OPTOMETRISTS FROM  
22 PRESCRIBING, ADMINISTERING, DISPENSING OR USING ANY CONTROLLED  
23 SUBSTANCE IN SCHEDULE I OR II; TO AMEND SECTIONS 41-29-109,  
24 41-29-125, 41-29-133, 41-29-157, 41-29-159, 41-29-167 AND  
25 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE  
26 BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED  
27 OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT  
28 THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND  
29 CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; TO AMEND  
30 SECTION 73-19-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE  
31 AUTOMATIC REPEALER ON THOSE STATUTES CREATING AND EMPOWERING THE  
32 STATE BOARD OF OPTOMETRY; AND FOR RELATED PURPOSES.

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

34 SECTION 1. Section 73-19-1, Mississippi Code of 1972, is  
35 amended as follows:

36 73-19-1. The practice of optometry is defined to be the  
37 application of optical principles, through technical methods and  
38 devices in the examination of human eyes for the purpose of  
39 ascertaining departures from the normal, measuring their  
40 functional powers and adapting optical accessories for the aid  
41 thereof. The practice of optometry shall include the prescribing  
42 and use of therapeutic pharmaceutical agents by optometrists



43 certified under Sections 73-19-153 through 73-19-165. The  
44 practice of optometry shall not include the performing of  
45 injections into the eyeball, cataract surgery or laser surgery,  
46 but shall not preclude the removal of superficial foreign bodies  
47 from the eye or other noninvasive procedures. Nothing in this  
48 section or any other provision of law shall be construed to  
49 prohibit optometrists who have been certified under Sections  
50 73-19-153 through 73-19-165 from providing postophthalmic surgical  
51 or clinical care and management with the advice and consultation  
52 of the operating or treating physician.

53 SECTION 2. Section 73-19-157, Mississippi Code of 1972, is  
54 amended as follows:

55 73-19-157. \* \* \* Any optometrist certified to prescribe and  
56 use therapeutic pharmaceutical agents under Sections 73-19-153  
57 through 73-19-165 is authorized to examine, diagnose, manage and  
58 treat visual defects, abnormal conditions and diseases of the  
59 human eye and adjacent structures as provided below:

60 (a) The administration and prescribing of  
61 pharmaceutical agents as listed in the Optometric Formulary as  
62 determined by the State Board of Optometry. The current  
63 Optometric Formulary shall consist of all topical and oral  
64 medications listed in the Product Information on Pharmaceutical  
65 and Equipment Section (Section 7) of the 2001 Physicians Desk  
66 Reference for Ophthalmic Medicines;

67 (b) Additions to the Optometric Formulary shall be  
68 proposed by the State Board of Optometry and shall be submitted  
69 for approval to a board consisting of two (2) members selected by  
70 the State Board of Optometry, two (2) members selected by the  
71 Mississippi State Medical Licensure Board and three (3) members  
72 selected by the State Board of Pharmacy. An affirmative vote of  
73 five (5) members of the board shall be necessary to add  
74 pharmaceutical agents to the Optometric Formulary. The members of



75 the board shall serve for three (3) years and shall receive no  
76 remuneration;

77 (c) The performance of primary eye care procedures  
78 rational to the management or treatment of visual defects and  
79 abnormal conditions or diseases of the eye or adjacent structures.  
80 These procedures shall be limited, however, to the following codes  
81 as listed in the 2001 Current Procedural Terminology Manual of the  
82 American Medical Association: 65205 (removal of foreign body,  
83 external eye, conjunctiva superficial); 65210 (conjunctival  
84 embedded (includes concretions), subconjunctival or scleral  
85 nonperforating); 65220 (corneal without slit lamp); 65222  
86 (corneal, with slit lamp); 67820 (correction of trichiasis,  
87 epilation by forceps only); 68040 (expression of conjunctival  
88 follicles (eg. for trachoma); 68761 (closure of lacrimal punctum  
89 by plug); 68808 (dilation of lacrimal puncture with or without  
90 irrigation); and 68840 (probing of lacrimal canaliculi, with or  
91 without irrigation);

92 (d) Therapeutically certified optometrists shall be  
93 held to the same standards of care and standards of record keeping  
94 as physicians and dentists;

95 (e) Therapeutically certified optometrists shall be  
96 required to provide, either personally or through coverage  
97 arrangements with other optometrists or ophthalmologists,  
98 twenty-four-hour a day coverage. Coverage shall be defined as  
99 being physically available to examine a patient within one (1)  
100 hour of a call from said patient;

101 (f) Therapeutically certified optometrists shall carry  
102 malpractice insurance in an amount of One Million Dollars  
103 (\$1,000,000.00) per occurrence/Three Million Dollars  
104 (\$3,000,000.00) annual aggregate. Proof of insurance shall be  
105 submitted to the State Board of Optometry each year prior to  
106 recertification.

107 \* \* \*



108 SECTION 3. Section 73-19-165, Mississippi Code of 1972, is  
109 amended as follows:

110 73-19-165. Any pharmacist licensed under the laws of the  
111 State of Mississippi is authorized to fill and dispense \* \* \*  
112 therapeutic pharmaceutical agents to patients \* \* \* for any  
113 optometrist certified by the State Board of Optometry to use such  
114 agents.

115 SECTION 4. Section 41-29-105, Mississippi Code of 1972, is  
116 amended as follows:

117 41-29-105. The following words and phrases, as used in this  
118 article, shall have the following meanings, unless the context  
119 otherwise requires:

120 (a) "Administer" means the direct application of a  
121 controlled substance, whether by injection, inhalation, ingestion  
122 or any other means, to the body of a patient or research subject  
123 by:

124 (1) A practitioner (or, in his presence, by his  
125 authorized agent); or

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

128 (b) "Agent" means an authorized person who acts on  
129 behalf of or at the direction of a manufacturer, distributor or  
130 dispenser. Such word does not include a common or contract  
131 carrier, public warehouseman or employee of the carrier or  
132 warehouseman. This definition shall not be applied to the term  
133 "agent" when such term clearly designates a member or officer of  
134 the Bureau of Narcotics or other law enforcement organization.

135 (c) "Board" means the Mississippi State Board of  
136 Medical Licensure.

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



140 (e) "Commissioner" means the Commissioner of the  
141 Department of Public Safety.

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

145 (g) "Counterfeit substance" means a controlled  
146 substance which, or the container or labeling of which, without  
147 authorization, bears the trademark, trade name, or other  
148 identifying mark, imprint, number or device, or any likeness  
149 thereof, of a manufacturer, distributor or dispenser other than  
150 the person who in fact manufactured, distributed or dispensed the  
151 substance.

152 (h) "Deliver" or "delivery" means the actual,  
153 constructive, or attempted transfer from one (1) person to another  
154 of a controlled substance, whether or not there is an agency  
155 relationship.

156 (i) "Director" means the Director of the Bureau of  
157 Narcotics.

158 (j) "Dispense" means to deliver a controlled substance  
159 to an ultimate user or research subject by or pursuant to the  
160 lawful order of a practitioner, including the prescribing,  
161 administering, packaging, labeling or compounding necessary to  
162 prepare the substance for that delivery.

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

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

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

167 (n) "Drug" means (1) a substance recognized as a drug  
168 in the official United States Pharmacopoeia, official Homeopathic  
169 Pharmacopoeia of the United States, or official National  
170 Formulary, or any supplement to any of them; (2) a substance  
171 intended for use in the diagnosis, cure, mitigation, treatment, or  
172 prevention of disease in man or animals; (3) a substance (other



173 than food) intended to affect the structure or any function of the  
174 body of man or animals; and (4) a substance intended for use as a  
175 component of any article specified in this paragraph. Such word  
176 does not include devices or their components, parts, or  
177 accessories.

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

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

187 (q) "Manufacture" means the production, preparation,  
188 propagation, compounding, conversion or processing of a controlled  
189 substance, either directly or indirectly, by extraction from  
190 substances of natural origin, or independently by means of  
191 chemical synthesis, or by a combination of extraction and chemical  
192 synthesis, and includes any packaging or repackaging of the  
193 substance or labeling or relabeling of its container. The term  
194 "manufacture" does not include the preparation, compounding,  
195 packaging or labeling of a controlled substance in conformity with  
196 applicable state and local law:

197 (1) By a practitioner as an incident to his  
198 administering or dispensing of a controlled substance in the  
199 course of his professional practice; or

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

203 (r) "Marihuana" means all parts of the plant of the  
204 genus Cannabis and all species thereof, whether growing or not,  
205 the seeds thereof, and every compound, manufacture, salt,



206 derivative, mixture or preparation of the plant or its seeds,  
207 excluding hashish.

208 (s) "Narcotic drug" means any of the following, whether  
209 produced directly or indirectly by extraction from substances of  
210 vegetable origin, or independently by means of chemical synthesis,  
211 or by a combination of extraction and chemical synthesis:

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

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

218 (3) Opium poppy and poppy straw; and

219 (4) Cocaine, coca leaves and any salt, compound,  
220 derivative or preparation of cocaine, coca leaves, and any salt,  
221 compound, isomer, derivative or preparation thereof which is  
222 chemically equivalent or identical with any of these substances,  
223 but not including decocainized coca leaves or extractions of coca  
224 leaves which do not contain cocaine or ecgonine.

225 (t) "Opiate" means any substance having an  
226 addiction-forming or addiction-sustaining liability similar to  
227 morphine or being capable of conversion into a drug having  
228 addiction-forming or addiction-sustaining liability. It does not  
229 include, unless specifically designated as controlled under  
230 Section 41-29-111, the dextrorotatory isomer of  
231 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such  
232 word does include its racemic and levorotatory forms.

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

235 (v) "Paraphernalia" means all equipment, products and  
236 materials of any kind which are used, intended for use, or  
237 designed for use, in planting, propagating, cultivating, growing,  
238 harvesting, manufacturing, compounding, converting, producing,



239 processing, preparing, testing, analyzing, packaging, repackaging,  
240 storing, containing, concealing, injecting, ingesting, inhaling or  
241 otherwise introducing into the human body a controlled substance  
242 in violation of the Uniform Controlled Substances Law. It  
243 includes, but is not limited to:

244 (i) Kits used, intended for use, or designed for  
245 use in planting, propagating, cultivating, growing or harvesting  
246 of any species of plant which is a controlled substance or from  
247 which a controlled substance can be derived;

248 (ii) Kits used, intended for use, or designed for  
249 use in manufacturing, compounding, converting, producing,  
250 processing or preparing controlled substances;

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

254 (iv) Testing equipment used, intended for use, or  
255 designed for use in identifying or in analyzing the strength,  
256 effectiveness or purity of controlled substances;

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

259 (vi) Diluents and adulterants, such as quinine  
260 hydrochloride, mannitol, mannite, dextrose and lactose, used,  
261 intended for use or designed for use in cutting controlled  
262 substances;

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

266 (viii) Blenders, bowls, containers, spoons and  
267 mixing devices used, intended for use or designed for use in  
268 compounding controlled substances;

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





272 (x) Containers and other objects used, intended  
273 for use or designed for use in storing or concealing controlled  
274 substances;

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

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

- 281 1. Metal, wooden, acrylic, glass, stone,  
282 plastic or ceramic pipes with or without screens, permanent  
283 screens, hashish heads or punctured metal bowls;
- 284 2. Water pipes;
- 285 3. Carburetion tubes and devices;
- 286 4. Smoking and carburetion masks;
- 287 5. Roach clips, meaning objects used to hold  
288 burning material, such as a marihuana cigarette, that has become  
289 too small or too short to be held in the hand;
- 290 6. Miniature cocaine spoons and cocaine  
291 vials;
- 292 7. Chamber pipes;
- 293 8. Carburetor pipes;
- 294 9. Electric pipes;
- 295 10. Air-driven pipes;
- 296 11. Chillums;
- 297 12. Bonges; and
- 298 13. Ice pipes or chillers.

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

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



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

307 (iii) The proximity of the object, in time and  
308 space, to a direct violation of the Uniform Controlled Substances  
309 Law;

310 (iv) The proximity of the object to controlled  
311 substances;

312 (v) The existence of any residue of controlled  
313 substances on the object;

314 (vi) Direct or circumstantial evidence of the  
315 intent of an owner, or of anyone in control of the object, to  
316 deliver it to persons whom he knows, or should reasonably know,  
317 intend to use the object to facilitate a violation of the Uniform  
318 Controlled Substances Law; the innocence of an owner, or of anyone  
319 in control of the object, as to a direct violation of the Uniform  
320 Controlled Substances Law shall not prevent a finding that the  
321 object is intended for use, or designed for use as paraphernalia;

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

324 (viii) Descriptive materials accompanying the  
325 object which explain or depict its use;

326 (ix) National and local advertising concerning its  
327 use;

328 (x) The manner in which the object is displayed  
329 for sale;

330 (xi) Whether the owner or anyone in control of the  
331 object is a legitimate supplier of like or related items to the  
332 community, such as a licensed distributor or dealer of tobacco  
333 products;

334 (xii) Direct or circumstantial evidence of the  
335 ratio of sales of the object(s) to the total sales of the business  
336 enterprise;



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

339 (xiv) Expert testimony concerning its use.

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

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

345 (y) "Practitioner" means:

346 (1) A physician, dentist, veterinarian, scientific  
347 investigator or optometrist certified to prescribe and use  
348 therapeutic pharmaceutical agents under Sections 73-19-153 through  
349 73-19-165, or other person licensed, registered or otherwise  
350 permitted to distribute, dispense, conduct research with respect  
351 to or to administer a controlled substance in the course of  
352 professional practice or research in this state; and

353 (2) A pharmacy, hospital or other institution  
354 licensed, registered, or otherwise permitted to distribute,  
355 dispense, conduct research with respect to or to administer a  
356 controlled substance in the course of professional practice or  
357 research in this state.

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

360 (aa) "Sale," "sell" or "selling" means the actual,  
361 constructive or attempted transfer or delivery of a controlled  
362 substance for remuneration, whether in money or other  
363 consideration.

364 (bb) "State," when applied to a part of the United  
365 States, includes any state, district, commonwealth, territory,  
366 insular possession thereof, and any area subject to the legal  
367 authority of the United States of America.

368 (cc) "Ultimate user" means a person who lawfully  
369 possesses a controlled substance for his own use or for the use of



370 a member of his household or for administering to an animal owned  
371 by him or by a member of his household.

372 SECTION 5. Section 41-29-137, Mississippi Code of 1972, is  
373 amended as follows:

374 41-29-137. (a) Except when dispensed directly by a  
375 practitioner, other than a pharmacy, to an ultimate user, no  
376 controlled substance in Schedule II, as set out in Section  
377 41-29-115, may be dispensed without the written prescription of a  
378 practitioner. A practitioner shall keep a record of all  
379 controlled substances in Schedule I, II and III administered,  
380 dispensed or professionally used by him otherwise than by  
381 prescription.

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

389 (b) Except when dispensed directly by a practitioner, other  
390 than a pharmacy, to an ultimate user, a controlled substance  
391 included in Schedule III or IV, as set out in Sections 41-29-117  
392 and 41-29-119, which is a prescription drug as determined under  
393 Federal Control Substance Act, shall not be dispensed without a  
394 written or oral prescription of a practitioner. The prescription  
395 shall not be filled or refilled more than six (6) months after the  
396 date thereof or be refilled more than five (5) times, unless  
397 renewed by the practitioner.

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

401 (d) An optometrist certified to prescribe and use  
402 therapeutic pharmaceutical agents under Sections 73-19-153 through



403 73-19-165 shall not be authorized to prescribe, administer,  
404 dispense or use any controlled substance in Schedule I or II.

405 SECTION 6. Section 41-29-109, Mississippi Code of 1972, is  
406 amended as follows:

407 41-29-109. The Mississippi Bureau of Narcotics shall have  
408 the full cooperation and use of facilities and personnel of the  
409 State Board of Pharmacy, the State Board of Medical Licensure, the  
410 State Board of Dental Examiners, the State Board of Optometry, the  
411 district and county attorneys, and of the Attorney General's  
412 office.

413 It shall be the duty of all duly sworn peace officers of the  
414 State of Mississippi to enforce the provisions of this article  
415 with reference to illicit narcotic and drug traffic. The  
416 provisions of this article may likewise be enforced by agents of  
417 the United States Drug Enforcement Administration.

418 SECTION 7. Section 41-29-125, Mississippi Code of 1972, is  
419 amended as follows:

420 41-29-125. The State Board of Pharmacy may promulgate rules  
421 and regulations relating to the registration and control of the  
422 manufacture, distribution and dispensing of controlled substances  
423 within this state.

424 (a) Every person who manufactures, distributes or  
425 dispenses any controlled substance within this state, or who  
426 proposes to engage in the manufacture, distribution or dispensing  
427 of any controlled substance within this state, must obtain a  
428 registration issued by the State Board of Pharmacy, State Board of  
429 Medical Licensure, State Board of Dental Examiners or State Board  
430 of Optometry, as appropriate, in accordance with its rules. Such  
431 registration shall be obtained annually or biennially, as  
432 specified by the issuing board, and a reasonable fee may be  
433 charged by the issuing board for such registration.

434 (b) Persons registered by the State Board of Pharmacy,  
435 with the consent of the United States Drug Enforcement



436 Administration and the State Board of Medical Licensure, State  
437 Board of Dental Examiners or State Board of Optometry, to  
438 manufacture, distribute, dispense or conduct research with  
439 controlled substances may possess, manufacture, distribute,  
440 dispense or conduct research with those substances to the extent  
441 authorized by their registration and in conformity with the other  
442 provisions of this article.

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

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

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

451 (3) An ultimate user or a person in possession of  
452 any controlled substance pursuant to a lawful order of a  
453 practitioner or in lawful possession of a Schedule V substance as  
454 defined in Section 41-29-121.

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

459 (e) A separate registration is required at each  
460 principal place of business or professional practice where the  
461 applicant manufactures, distributes or dispenses controlled  
462 substances.

463 (f) The State Board of Pharmacy, Mississippi Bureau of  
464 Narcotics, the State Board of Medical Licensure, the State Board  
465 of Dental Examiners and the State Board of Optometry may inspect  
466 the establishment of a registrant or applicant for registration in  
467 accordance with the regulations of these agencies as approved by  
468 the board.



469 SECTION 8. Section 41-29-133, Mississippi Code of 1972, is  
470 amended as follows:

471 41-29-133. Persons registered to manufacture, distribute, or  
472 dispense controlled substances under this article shall keep  
473 records and maintain inventories in conformance with the  
474 record-keeping and inventory requirements of federal law and with  
475 any additional rules that the State Board of Pharmacy, State Board  
476 of Medical Licensure, State Board of Dental Examiners or State  
477 Board of Optometry may issue.

478 SECTION 9. Section 41-29-157, Mississippi Code of 1972, is  
479 amended as follows:

480 41-29-157. (a) Issuance and execution of administrative  
481 inspection warrants and search warrants shall be as follows,  
482 except as provided in subsection (c) of this section:

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

496 (2) A search warrant shall issue only upon an affidavit  
497 of a person having knowledge or information of the facts alleged,  
498 sworn to before the judge or justice court judge and establishing  
499 the grounds for issuing the warrant. If the judge or justice  
500 court judge is satisfied that grounds for the application exist or  
501 that there is probable cause to believe they exist, he shall issue



502 a warrant identifying the area, premises, building or conveyance  
503 to be searched, the purpose of the search, and, if appropriate,  
504 the type of property to be searched, if any. The warrant shall:

505 (A) State the grounds for its issuance and the  
506 name of each person whose affidavit has been taken in support  
507 thereof;

508 (B) Be directed to a person authorized by Section  
509 41-29-159 to execute it;

510 (C) Command the person to whom it is directed to  
511 inspect the area, premises, building or conveyance identified for  
512 the purpose specified, and if appropriate, direct the seizure of  
513 the property specified;

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

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

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

533 (4) The judge or justice court judge who has issued a  
534 warrant shall attach thereto a copy of the return and all papers





535 returnable in connection therewith and file them with the clerk of  
536 the appropriate state court for the judicial district in which the  
537 inspection was made.

538 (b) The bureau, the State Board of Pharmacy, \* \* \* the State  
539 Board of Medical Licensure, the State Board of Dental Examiners or  
540 the State Board of Optometry may make administrative inspections  
541 of controlled premises in accordance with the following  
542 provisions:

543 (1) For purposes of this section only, "controlled  
544 premises" means:

545 (A) Places where persons registered or exempted  
546 from registration requirements under this article are required to  
547 keep records; and

548 (B) Places including factories, warehouses,  
549 establishments and conveyances in which persons registered or  
550 exempted from registration requirements under this article are  
551 permitted to hold, manufacture, compound, process, sell, deliver,  
552 or otherwise dispose of any controlled substance.

553 (2) When authorized by an administrative inspection  
554 warrant issued in accordance with the conditions imposed in this  
555 section an officer or employee designated by the bureau, the State  
556 Board of Pharmacy, the State Board of Medical Licensure, the State  
557 Board of Dental Examiners or the State Board of Optometry, upon  
558 presenting the warrant and appropriate credentials to the owner,  
559 operator or agent in charge, may enter controlled premises for the  
560 purpose of conducting an administrative inspection.

561 (3) When authorized by an administrative inspection  
562 warrant, an officer or employee designated by the bureau, the  
563 State Board of Pharmacy, the State Board of Medical Licensure, the  
564 State Board of Dental Examiners or the State Board of Optometry  
565 may:

566 (A) Inspect and copy records required by this  
567 article to be kept;



568 (B) Inspect, within reasonable limits and in a  
569 reasonable manner, controlled premises and all pertinent  
570 equipment, finished and unfinished material, containers and  
571 labeling found therein, and, except as provided in paragraph (5)  
572 of this subsection, all other things therein, including records,  
573 files, papers, processes, controls and facilities bearing on  
574 violation of this article; and

575 (C) Inventory any stock of any controlled  
576 substance therein and obtain samples thereof.

577 (4) This section does not prevent the inspection  
578 without a warrant of books and records pursuant to an  
579 administrative subpoena, nor does it prevent entries and  
580 administrative inspections, including seizures of property,  
581 without a warrant:

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

584 (B) In situations presenting imminent danger to  
585 health or safety;

586 (C) In situations involving inspection of  
587 conveyances if there is reasonable cause to believe that the  
588 mobility of the conveyance makes it impracticable to obtain a  
589 warrant;

590 (D) In any other exceptional or emergency  
591 circumstance where time or opportunity to apply for a warrant is  
592 lacking; or

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

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

599 (c) Any agent of the bureau authorized to execute a search  
600 warrant involving controlled substances, the penalty for which is



601 imprisonment for more than one (1) year, may, without notice of  
602 his authority and purpose, break open an outer door or inner door,  
603 or window of a building, or any part of the building, if the judge  
604 issuing the warrant:

605           (1) Is satisfied that there is probable cause to  
606 believe that:

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

609                   (B) The giving of such notice will immediately  
610 endanger the life or safety of the executing officer or another  
611 person; and

612           (2) Has included in the warrant a direction that the  
613 officer executing the warrant shall not be required to give such  
614 notice.

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

618           Search warrants which include the instruction that the  
619 executing officer shall not be required to give notice of  
620 authority and purpose as authorized by this subsection shall be  
621 issued only by the county court or county judge in vacation,  
622 chancery court or by the chancellor in vacation, by the circuit  
623 court or circuit judge in vacation, or by a justice of the  
624 Mississippi Supreme Court.

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

629           SECTION 10. Section 41-29-159, Mississippi Code of 1972, is  
630 amended as follows:

631           41-29-159. (a) Any officer or employee of the bureau,  
632 investigative unit of the State Board of Pharmacy, investigative  
633 unit of the State Board of Medical Licensure, investigative unit



634 of the State Board of Dental Examiners, investigative unit of the  
635 State Board of Optometry, any duly sworn peace officer of the  
636 State of Mississippi, any enforcement officer of the Mississippi  
637 Department of Transportation, or any highway patrolman, may, while  
638 engaged in the performance of his statutory duties:

639 (1) Carry firearms;

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

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

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

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

665 (c) The provisions of this section shall not be construed to  
666 limit or preclude the detection or arrest of persons in violation



667 of Section 41-29-139 by any local law enforcement officer,  
668 sheriff, deputy sheriff or peace officer.

669 (d) Agents of the bureau are hereby authorized to  
670 investigate the circumstances of deaths which are caused by drug  
671 overdose or which are believed to be caused by drug overdose.

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

680 SECTION 11. Section 41-29-167, Mississippi Code of 1972, is  
681 amended as follows:

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

689 (1) Arrange for the exchange of information among  
690 governmental officials concerning the use and abuse of controlled  
691 substances;

692 (2) Coordinate and cooperate in training programs  
693 concerning controlled substance law enforcement at local and state  
694 levels;

695 (3) Cooperate with the United States Drug Enforcement  
696 Administration by establishing a centralized unit to accept,  
697 catalogue, file and collect statistics, including records of drug  
698 dependent persons and other controlled substance law offenders



699 within the state, and make the information available for federal,  
700 state and local law enforcement purposes; and

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

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

712 SECTION 12. Section 41-29-171, Mississippi Code of 1972, is  
713 amended as follows:

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

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

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

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

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

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



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

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

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

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

747           73-19-31. Sections 73-19-1 through 73-19-29 and 73-19-33  
748 through 73-19-45, which create the Mississippi Board of Optometry  
749 and prescribe its duties and powers, shall stand repealed as of  
750 July 1, 2011.

751           SECTION 14. This act shall take effect and be in force from  
752 and after June 30, 2001.

