

By: Senator(s) Minor

To: Public Health and Welfare

SENATE BILL NO. 2748

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 CERTAIN PHARMACEUTICAL AGENTS; TO AUTHORIZE OPTOMETRISTS WHO HAVE
 6 BEEN CERTIFIED TO PERFORM PRIMARY EYE CARE PROCEDURES INCLUDING
 7 CERTAIN CODES OF THE AMERICAN MEDICAL ASSOCIATION; TO PROVIDE THAT
 8 THERAPEUTICALLY CERTIFIED OPTOMETRISTS SHALL BE HELD TO THE SAME
 9 STANDARDS OF CARE AS PHYSICIANS AND DENTISTS; TO REQUIRE
 10 THERAPEUTICALLY CERTIFIED OPTOMETRISTS TO PROVIDE 24-HOUR
 11 COVERAGE; TO AMEND SECTION 73-19-165, MISSISSIPPI CODE OF 1972, IN
 12 CONFORMITY TO THE PRECEDING SECTION; TO AMEND SECTION 41-29-105,
 13 MISSISSIPPI CODE OF 1972, TO DEFINE THOSE CERTIFIED OPTOMETRISTS
 14 AS "PRACTITIONERS" UNDER THE UNIFORM CONTROLLED SUBSTANCES LAW; TO
 15 AMEND SECTION 41-29-137, MISSISSIPPI CODE OF 1972, TO PROHIBIT
 16 THOSE CERTIFIED OPTOMETRISTS FROM PRESCRIBING, ADMINISTERING,
 17 DISPENSING OR USING ANY CONTROLLED SUBSTANCE IN SCHEDULE I OR II;
 18 TO AMEND SECTIONS 41-29-109, 41-29-157, 41-29-159, 41-29-167 AND
 19 41-29-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE
 20 BOARD OF OPTOMETRY SHALL ISSUE REGISTRATIONS TO THOSE CERTIFIED
 21 OPTOMETRISTS WHO DISPENSE CONTROLLED SUBSTANCES; TO PROVIDE THAT
 22 THE STATE BOARD OF OPTOMETRY IS RESPONSIBLE FOR REGULATING AND
 23 CHECKING THE LEGITIMATE DRUG TRAFFIC AMONG OPTOMETRISTS; 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. 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 optical accessories for the aid
 33 thereof. The practice of optometry shall include the prescribing
 34 and use of therapeutic pharmaceutical agents by optometrists
 35 certified under Sections 73-19-153 through 73-19-165. The
 36 practice of optometry shall not include the performing of
 37 injections into the eyeball, cataract surgery or laser surgery,
 38 but shall not preclude the removal of superficial foreign bodies



39 from the eye or other noninvasive procedures. Nothing in this
40 section or any other provision of law shall be construed to
41 prohibit optometrists who have been certified under Sections
42 73-19-153 through 73-19-165 from providing postophthalmic surgical
43 or clinical care and management with the advice and consultation
44 of the operating or treating physician.

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

47 73-19-157. * * * Any optometrist certified to prescribe and
48 use therapeutic pharmaceutical agents under Sections 73-19-153
49 through 73-19-165 is authorized to examine, diagnose, manage and
50 treat visual defects, abnormal conditions and diseases of the
51 human eye and adjacent structures as provided below:

52 (a) The administration and prescribing of
53 pharmaceutical agents as listed in the Optometric Formulary as
54 determined by the State Board of Optometry, which shall consist of
55 all topical medications authorized for prescription by
56 optometrists prior to the effective date of this act, controlled
57 substances listed in Schedules III, IV and V of the Uniform
58 Controlled Substances Act, and shall specifically include the
59 authority to administer benadryl, epinephrine or equivalent
60 medication to counteract anaphylaxis or anaphylactic reaction.
61 Additions to the Optometric Formulary shall be proposed by the
62 State Board of Optometry and shall be submitted for approval to a
63 formulary board consisting of the Chairman of the State Board of
64 Optometry, the Chairman of the Mississippi State Medical Licensure
65 Board and the Chairman of the State Board of Pharmacy, who shall
66 serve as chairman of the formulary board. An affirmative vote of
67 two (2) members of the board shall be necessary to add
68 pharmaceutical agents to the Optometric Formulary. The formulary
69 board shall meet twice annually: in the month of January and in
70 the month of July, beginning in July 2001. The members of the



71 board shall serve for three (3) years and shall receive no
72 remuneration;

73 (b) The performance of primary eye care procedures
74 rational to the management or treatment of visual defects and
75 abnormal conditions or diseases of the eye or adjacent structures.
76 These procedures shall include the following codes as listed in
77 the 2001 Current Procedural Terminology Manual of the American
78 Medical Association: 65205 (removal of foreign body, external
79 eye, conjunctiva superficial); 65210 (conjunctival embedded
80 (includes concretions), subconjunctival or scleral
81 nonperforating); 65220 (corneal without slit lamp); 65222
82 (corneal, with slit lamp); 67820 (correction of trichiasis,
83 epilation by forceps only); 68040 (expression of conjunctival
84 follicles (eg. for trachoma); 68761 (closure of lacrimal punctum
85 by plug); 68808 (dilation of lacrimal puncture with or without
86 irrigation); and 68840 (probing of lacrimal canaliculi, with or
87 without irrigation); and may include additional procedures not
88 invasive to the eyes or adjacent structures as determined by the
89 State Board of Optometry which do not require the use of a local
90 anesthetic or closure by suturing;

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

94 (d) The State Board of Optometry shall develop policies
95 requiring therapeutically certified optometrists to provide,
96 either personally or through coverage arrangements with other
97 optometrists or physicians, after hour, weekend and holiday
98 coverage.

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

101 73-19-165. Any pharmacist licensed under the laws of the
102 State of Mississippi is authorized to fill and dispense * * *
103 therapeutic pharmaceutical agents to patients * * * for any



104 optometrist certified by the State Board of Optometry to use such
105 agents.

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

108 41-29-105. The following words and phrases, as used in this
109 article, shall have the following meanings, unless the context
110 otherwise requires:

111 (a) "Administer" means the direct application of a
112 controlled substance, whether by injection, inhalation, ingestion
113 or any other means, to the body of a patient or research subject
114 by:

115 (1) A practitioner (or, in his presence, by his
116 authorized agent); or

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

119 (b) "Agent" means an authorized person who acts on
120 behalf of or at the direction of a manufacturer, distributor or
121 dispenser. Such word does not include a common or contract
122 carrier, public warehouseman or employee of the carrier or
123 warehouseman. This definition shall not be applied to the term
124 "agent" when such term clearly designates a member or officer of
125 the Bureau of Narcotics or other law enforcement organization.

126 (c) "Board" means the Mississippi State Board of
127 Medical Licensure.

128 (d) "Bureau" means the Mississippi Bureau of Narcotics.
129 However, where the title "Bureau of Drug Enforcement" occurs, said
130 term shall also refer to the Mississippi Bureau of Narcotics.

131 (e) "Commissioner" means the Commissioner of the
132 Department of Public Safety.

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



136 (g) "Counterfeit substance" means a controlled
137 substance which, or the container or labeling of which, without
138 authorization, bears the trademark, trade name, or other
139 identifying mark, imprint, number or device, or any likeness
140 thereof, of a manufacturer, distributor or dispenser other than
141 the person who in fact manufactured, distributed or dispensed the
142 substance.

143 (h) "Deliver" or "delivery" means the actual,
144 constructive, or attempted transfer from one person to another of
145 a controlled substance, whether or not there is an agency
146 relationship.

147 (i) "Director" means the Director of the Bureau of
148 Narcotics.

149 (j) "Dispense" means to deliver a controlled substance
150 to an ultimate user or research subject by or pursuant to the
151 lawful order of a practitioner, including the prescribing,
152 administering, packaging, labeling or compounding necessary to
153 prepare the substance for that delivery.

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

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

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

158 (n) "Drug" means (1) a substance recognized as a drug
159 in the official United States Pharmacopoeia, official Homeopathic
160 Pharmacopoeia of the United States, or official National
161 Formulary, or any supplement to any of them; (2) a substance
162 intended for use in the diagnosis, cure, mitigation, treatment, or
163 prevention of disease in man or animals; (3) a substance (other
164 than food) intended to affect the structure or any function of the
165 body of man or animals; and (4) a substance intended for use as a
166 component of any article specified in this paragraph. Such word
167 does not include devices or their components, parts, or
168 accessories.



169 (o) "Hashish" means the resin extracted from any part
170 of the plants of the genus Cannabis and all species thereof or any
171 preparation, mixture or derivative made from or with said resin.

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

178 (q) "Manufacture" means the production, preparation,
179 propagation, compounding, conversion or processing of a controlled
180 substance, either directly or indirectly, by extraction from
181 substances of natural origin, or independently by means of
182 chemical synthesis, or by a combination of extraction and chemical
183 synthesis, and includes any packaging or repackaging of the
184 substance or labeling or relabeling of its container. The term
185 "manufacture" does not include the preparation, compounding,
186 packaging or labeling of a controlled substance in conformity with
187 applicable state and local law:

188 (1) By a practitioner as an incident to his
189 administering or dispensing of a controlled substance in the
190 course of his professional practice; or

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

194 (r) "Marihuana" means all parts of the plant of the
195 genus Cannabis and all species thereof, whether growing or not,
196 the seeds thereof, and every compound, manufacture, salt,
197 derivative, mixture or preparation of the plant or its seeds,
198 excluding hashish.

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



201 vegetable origin, or independently by means of chemical synthesis,
202 or by a combination of extraction and chemical synthesis:

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

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

209 (3) Opium poppy and poppy straw; and

210 (4) Cocaine, coca leaves and any salt, compound,
211 derivative or preparation of cocaine, coca leaves, and any salt,
212 compound, isomer, derivative or preparation thereof which is
213 chemically equivalent or identical with any of these substances,
214 but not including decocainized coca leaves or extractions of coca
215 leaves which do not contain cocaine or ecgonine.

216 (t) "Opiate" means any substance having an
217 addiction-forming or addiction-sustaining liability similar to
218 morphine or being capable of conversion into a drug having
219 addiction-forming or addiction-sustaining liability. It does not
220 include, unless specifically designated as controlled under
221 Section 41-29-111, the dextrorotatory isomer of
222 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). Such
223 word does include its racemic and levorotatory forms.

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

226 (v) "Paraphernalia" means all equipment, products and
227 materials of any kind which are used, intended for use, or
228 designed for use, in planting, propagating, cultivating, growing,
229 harvesting, manufacturing, compounding, converting, producing,
230 processing, preparing, testing, analyzing, packaging, repackaging,
231 storing, containing, concealing, injecting, ingesting, inhaling or
232 otherwise introducing into the human body a controlled substance



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

235 (i) Kits used, intended for use, or designed for
236 use in planting, propagating, cultivating, growing or harvesting
237 of any species of plant which is a controlled substance or from
238 which a controlled substance can be derived;

239 (ii) Kits used, intended for use, or designed for
240 use in manufacturing, compounding, converting, producing,
241 processing or preparing controlled substances;

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

245 (iv) Testing equipment used, intended for use, or
246 designed for use in identifying or in analyzing the strength,
247 effectiveness or purity of controlled substances;

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

250 (vi) Diluents and adulterants, such as quinine
251 hydrochloride, mannitol, mannite, dextrose and lactose, used,
252 intended for use or designed for use in cutting controlled
253 substances;

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

257 (viii) Blenders, bowls, containers, spoons and
258 mixing devices used, intended for use or designed for use in
259 compounding controlled substances;

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

263 (x) Containers and other objects used, intended
264 for use or designed for use in storing or concealing controlled
265 substances;



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

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

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

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

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

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



298 (iii) The proximity of the object, in time and
299 space, to a direct violation of the Uniform Controlled Substances
300 Law;

301 (iv) The proximity of the object to controlled
302 substances;

303 (v) The existence of any residue of controlled
304 substances on the object;

305 (vi) Direct or circumstantial evidence of the
306 intent of an owner, or of anyone in control of the object, to
307 deliver it to persons whom he knows, or should reasonably know,
308 intend to use the object to facilitate a violation of the Uniform
309 Controlled Substances Law; the innocence of an owner, or of anyone
310 in control of the object, as to a direct violation of the Uniform
311 Controlled Substances Law shall not prevent a finding that the
312 object is intended for use, or designed for use as paraphernalia;

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

315 (viii) Descriptive materials accompanying the
316 object which explain or depict its use;

317 (ix) National and local advertising concerning its
318 use;

319 (x) The manner in which the object is displayed
320 for sale;

321 (xi) Whether the owner or anyone in control of the
322 object is a legitimate supplier of like or related items to the
323 community, such as a licensed distributor or dealer of tobacco
324 products;

325 (xii) Direct or circumstantial evidence of the
326 ratio of sales of the object(s) to the total sales of the business
327 enterprise;

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

330 (xiv) Expert testimony concerning its use.



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

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

336 (y) "Practitioner" means:

337 (1) A physician, dentist, veterinarian, scientific
338 investigator or optometrist certified to prescribe and use
339 therapeutic pharmaceutical agents under Sections 3-19-153 through
340 73-19-165, or other person licensed, registered or otherwise
341 permitted to distribute, dispense, conduct research with respect
342 to or to administer a controlled substance in the course of
343 professional practice or research in this state; and

344 (2) A pharmacy, hospital or other institution
345 licensed, registered, or otherwise permitted to distribute,
346 dispense, conduct research with respect to or to administer a
347 controlled substance in the course of professional practice or
348 research in this state.

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

351 (aa) "Sale," "sell" or "selling" means the actual,
352 constructive or attempted transfer or delivery of a controlled
353 substance for remuneration, whether in money or other
354 consideration.

355 (bb) "State," when applied to a part of the United
356 States, includes any state, district, commonwealth, territory,
357 insular possession thereof, and any area subject to the legal
358 authority of the United States of America.

359 (cc) "Ultimate user" means a person who lawfully
360 possesses a controlled substance for his own use or for the use of
361 a member of his household or for administering to an animal owned
362 by him or by a member of his household.



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

365 41-29-137. (a) Except when dispensed directly by a
366 practitioner, other than a pharmacy, to an ultimate user, no
367 controlled substance in Schedule II, as set out in Section
368 41-29-115, may be dispensed without the written prescription of a
369 practitioner. A practitioner shall keep a record of all
370 controlled substances in Schedule I, II and III administered,
371 dispensed or professionally used by him otherwise than by
372 prescription.

373 In emergency situations, as defined by rule of the state
374 board of pharmacy, * * * Schedule II drugs may be dispensed upon
375 oral prescription of a practitioner, reduced promptly to writing
376 and filed by the pharmacy. Prescriptions shall be retained in
377 conformity with the requirements of Section 41-29-133. No
378 prescription for a Schedule II substance may be refilled unless
379 renewed by prescription issued by a licensed medical doctor.

380 (b) Except when dispensed directly by a practitioner, other
381 than a pharmacy, to an ultimate user, a controlled substance
382 included in Schedule III or IV, as set out in Sections 41-29-117
383 and 41-29-119, which is a prescription drug as determined under
384 Federal Controlled Substances Act, shall not be dispensed without
385 a written or oral prescription of a practitioner. The
386 prescription shall not be filled or refilled more than six months
387 after the date thereof or be refilled more than five times, unless
388 renewed by the practitioner.

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

392 (d) An optometrist certified to prescribe and use
393 therapeutic pharmaceutical agents under Sections 73-19-153 through
394 73-19-165 shall not be authorized to prescribe, administer,
395 dispense or use any controlled substance in Schedule I or II.



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

398 41-29-109. The Mississippi Bureau of Narcotics shall have
399 the full cooperation and use of facilities and personnel of the
400 State Board of Pharmacy, the State Board of Medical Licensure, the
401 State Board of Dental Examiners, the State Board of Optometry, the
402 Mississippi Board of Nursing, the district and county attorneys,
403 and of the Attorney General's office.

404 It shall be the duty of all duly sworn peace officers of the
405 State of Mississippi to enforce the provisions of this article
406 with reference to illicit narcotic and drug traffic. The
407 provisions of this article may likewise be enforced by agents of
408 the United States Drug Enforcement Administration.

409 **SECTION 7.** Section 41-29-157, Mississippi Code of 1972, is
410 amended as follows:

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

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

427 (2) A search warrant shall issue only upon an affidavit
428 of a person having knowledge or information of the facts alleged,



429 sworn to before the judge or justice court judge and establishing
430 the grounds for issuing the warrant. If the judge or justice
431 court judge is satisfied that grounds for the application exist or
432 that there is probable cause to believe they exist, he shall issue
433 a warrant identifying the area, premises, building or conveyance
434 to be searched, the purpose of the search, and, if appropriate,
435 the type of property to be searched, if any. The warrant shall:

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

439 (B) Be directed to a person authorized by Section
440 41-29-159 to execute it;

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

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

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

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



462 premises the property was taken and to the applicant for the
463 warrant;

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

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

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

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

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

484 (2) When authorized by an administrative inspection
485 warrant issued in accordance with the conditions imposed in this
486 section, 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, upon
490 presenting the warrant and appropriate credentials to the owner,
491 operator or agent in charge, may enter controlled premises for the
492 purpose of conducting an administrative inspection.

493 (3) When authorized by an administrative inspection
494 warrant, an officer or employee designated by the Mississippi



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

557 This subsection shall expire and stand repealed from and
558 after July 1, 1974, except that the repeal shall not affect the



559 validity or legality of any search authorized under this
560 subsection and conducted prior to July 1, 1974.

561 **SECTION 8.** Section 41-29-159, Mississippi Code of 1972, is
562 amended as follows:

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

- 573 (1) Carry firearms;
- 574 (2) Execute and serve search warrants, arrest warrants,
575 subpoenas, and summonses issued under the authority of this state;
- 576 (3) Make arrests without warrant for any offense under
577 this article committed in his presence, or if he has probable
578 cause to believe that the person to be arrested has committed or
579 is committing a crime; and
- 580 (4) Make seizures of property pursuant to this article.

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



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

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

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

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

617 **SECTION 9.** Section 41-29-167, Mississippi Code of 1972, is
618 amended as follows:

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



625 in suppressing the abuse of controlled substances. To this end,
626 they may:

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

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

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

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

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

651 **SECTION 10.** Section 41-29-171, Mississippi Code of 1972, is
652 amended as follows:

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



658 the research, and in furtherance of the enforcement of this
659 article they may:

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

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

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

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

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

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

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

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

685 **SECTION 11.** This act shall take effect and be in force from
686 and after July 1, 2002.

