

By: Senator(s) Nunnelee, Albritton, Brown,
 Burton, Butler, Dearing, Doxey, Frazier,
 Gollott, Gordon, Harden, Horhn, Huggins,
 Jackson (15th), Jackson (11th), Jordan, King,
 Little, Ross, Simmons, Thomas, Turner, Walley

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, marihuana;

- 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.