

Mississippi Secretary of State

125 South Congress St., P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi State Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 07/19/18	Name or number of rule(s): Part 2640 Prescribing, Administering and Dispensing - Rule 1.1		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 1.1 is being updated to clarify which licensees the rule will affect.

Specific legal authority authorizing the promulgation of rule: 73-43-11

List all rules repealed, amended, or suspended by the proposed rule: Part 2640: Prescribing, Administering and Dispensing, Rule 1.1

ORAL PROCEEDING:

- An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____
- Presently, an oral proceeding is not scheduled on this rule.

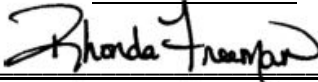
If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	Action proposed: _____ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed final effective date: _____ 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: <u>06/13/2018</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman

Signature of person authorized to file rules: 

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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Part 2640: Prescribing, Administering and Dispensing

Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication

Rule 1.2 Definitions. For the purpose of Part 2640, Chapter 1 only, the following terms have the meanings indicated:

- A. “Administer”, “Controlled Substances”, and “Ultimate User” shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
- B. “Board” means the Mississippi State Board of Medical Licensure.
- C. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- D. “Physician Assistant” means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
- E. “Licensee” means any person licensed by this Board who has prescriptive authority.
- F. “Prescriptive Authority” means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
- G. “Prescribe” means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
- H. “Dispense” means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- I. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.7.B, “Dispensing Physician” means any physician who dispenses to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made. As stated in Part 2617, it is understood that Physician Assistants may not dispense medications.
- J. “Prescription Drug” or “Legend Drug” means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; “Caution: Federal law prohibits dispensing without prescription,” or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by licensees only.
- K. “Pain Management Practice” means a public or privately owned practice for which 50% or more of the patients are issued, on a regular or recurring basis, a prescription for opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for the treatment of chronic non-cancerous/non-terminal pain. Included in this definition is any practice that advertises and/or holds itself out to provide pain management services. Patients who are treated for pain resulting from a terminal illness do not count against the percentage stated herein.
- L. “Inpatient” means a patient in a hospital, nursing home, long term care facility, inpatient (not home-bound) hospice, or any other facility wherein medications are dispensed to a patient by a third party who is duly licensed and/or certified to dispense medications in a healthcare or related facility.

- M. “Bariatric Medicine, Medical Weight Loss, or Weight Management Practice” means a public or privately owned practice
1. for which 30% or more of the patients are provided a comprehensive weight management treatment program or;
 2. 30% or more of the patients receive any controlled substance approved by the FDA for the pharmacologic management of weight loss or;
 3. which advertises weight loss by any means.

Excluded from this definition is any practice in which a licensee advertises the use of nonpharmacological products as part of the licensee’s overall practice of medicine. In order to be excluded from this definition, the licensee’s practice must have nonpharmacological weight loss and/or weight loss management as a component of the overall management of the patient’s total health care. If the use of nonpharmacological products for weight loss and/or weight management exceeds 30% of the total outpatient clinic visits for any single 90-day consecutive period, the practice will be considered a bariatric medicine/medical weight loss practice and will be subject to all the rules and regulations pertaining to bariatric medicine/medical weight loss practice.

Bariatric surgeons whose primary practice is surgical weight loss and not long-term management of weight loss through medical, pharmaceutical, and/or behavioral management are also excluded from this definition.

Amended July 19, 2018

Source: Miss. Code Ann. §73-43-11 (1972, as amended).