



## 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 2615, 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. any licensee who 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.

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

### Rule 1.14 Pain Management Medical Practice.

- A. A pain management medical practice must have, at all times, a majority ownership (more than 50%) by a physician or group of physicians licensed by the Board, and/or a hospital or health care entity registered with the Secretary of State to do business in the state of Mississippi. The physician or physician owners must practice an annual average of at least 20 hours per week within the state of Mississippi.
- B. A pain management medical practice must register with the Board.
- C. Each physician owner of a pain management medical practice must meet the requirements set forth below.
- D. Each licensee who serves as medical director, manager, or employee or who provides care in a pain management medical practice must meet the requirements set forth below.

Application for Initial Registration and Renewal - A physician owner of a pain management medical practice must:

- 1. submit the documents demonstrating proof of ownership or provide alternative documents with a written request for special consideration;
  - 2. report ownership or investment interest in any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which the physician has ownership or vested interest;
  - 3. identify all individuals with prescriptive authority who are employed or contracted in any capacity at each facility; and
  - 4. report any changes of information provided in the application for registration or renewal within 30 days of the effective date of the change.
- E. Physician owners or operators may not operate a pain management practice in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure. Certificates, once issued, are not transferable or assignable. Only the primary physician owner is required to register with the Board if there is more than one physician owner of the practice. Additional physician owners must register if they also provide patient care. Each practice requires a separate certificate.
  - F. Physician owners or operators may not operate a pain management practice in Mississippi unless the practice is owned or operated by a hospital or healthcare entity registered with the Secretary of State to do business in the state of Mississippi, or by a physician who:
    - 1. practices at least 20 hours per week providing direct patient care;
    - 2. holds an active unrestricted medical license ; and
    - 3. holds a certificate of registration for that pain management practice.

- G. No physician owners or operators of a pain management practice, nor any physician, nor any physician assistant, nor any medical director, manager, or employee or any physician or physician assistant who provides care may:
1. have been denied, by any jurisdiction, a certificate permitting the licensee to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
  2. have been issued, by any jurisdiction, a limited certificate to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
  3. have been denied a certificate issued by the Drug Enforcement Administration (DEA) permitting the licensee to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
  4. have been issued a limited certificate by the Drug Enforcement Administration (DEA) permitting the licensee to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
  5. have been subject to a disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance or the other listed medications under definitions; or
  6. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.
- H. No physician or physician assistant may own, operate, or practice in a pain management medical practice who has been convicted of, pled nolo contendere to or received deferred adjudication for:
1. an offense that constitutes a felony; or
  2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.
- I. Training requirements for all physicians practicing in pain management medical practices. Effective July 1, 2014, all physician owners or operators or any physician who serves as medical director, manager, or employee or who provides care in pain management medical practice must meet the qualifications set forth in subsections (1) through (5) below. All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:
1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;

2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists (BOS) in pain management;
3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of inter-active live participatory AMA or AOA Category 1 CME courses in pain management.

Upon qualifying under any of the 5 subsections above, physicians must also document completion of 30 hours of Category 1 CME for renewal of a pain management medical practice certificate.

- a. CME must have emphasis in the specific areas of pain management, addiction, or prescribing of opiates.
  - b. CME may be included with the forty hour requirement for licensure renewal.
  - c. Excess hours may not be carried over to another two year cycle. For the purpose of this regulation, the two year period begins with the fiscal year July 1, 2014, and every two years thereafter to be concurrent with the licensure requirement.
- J. Physicians and physician assistants practicing in a registered pain management medical practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report from the MPMP must be obtained on the initial visit for each patient. Subsequent reports must be obtained for each patient at every visit.
- K. Requirements for physician assistants practicing in pain management medical practices. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:
1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, with a physician who holds a license that is not designated as limited, restricted, retired, temporary, or in-training;
  2. Physician assistants with approved prescriptive authority must obtain 10 hours as required by the licensure requirement plus 5 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a pain management medical practice;
  3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and

4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).
- L. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. This does not prohibit a MPHP participant from working in a pain practice.
- M. Prior to the initial issuance of an opioid and/or benzodiazepine for the treatment of chronic non-cancer/non-terminal pain, each patient in a pain management practice must have an in-person evaluation by a registered pain management physician.
- N. Certificates are valid for one year and must be renewed annually. There is a thirty-day grace period for renewal after which the owner or operator must reapply for an original certificate. The physician owner or operator of the practice must post the certificate in a conspicuous location so as to be clearly visible to patients. The practice may not continue to operate while the certificate has expired.
- O. The Board has the authority to inspect a pain management medical practice. During such inspections, authorized representatives of the Board, who may be accompanied by investigators from state or federal law enforcement agencies, may inspect documents and medical records to ensure compliance with any applicable laws and rules.
- P. If the Board finds that a registered pain management practice no longer meets any of the requirements to operate as a pain practice, the Board may immediately revoke or suspend the physician's certificate to operate a pain management medical practice. The physician owner or operator shall have the right to an administrative hearing before the Board at the next available and scheduled meeting of the Board. Further, the Board has the discretion to lift the suspension of a certificate when the pain management medical practice demonstrates compliance with applicable rules and regulations.

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