

**BOARD MINUTES**  
**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**  
**SEPTEMBER 18, 2019**

The Hospice meeting of the Mississippi State Board of Medical Licensure was held on Wednesday, September 18, 2019, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

**THE FOLLOWING MEMBERS WERE PRESENT:**

J. Ann Rea, M.D., Columbus, President  
David W. McClendon, Jr., M.D., Ocean Springs, Vice President  
Michelle Y. Owens, M.D., Jackson, Secretary  
Charles D. Miles, M.D., West Point  
C. Kenneth Lippincott, M.D., Tupelo  
H. Allen Gersh, M.D., Hattiesburg  
Daniel Edney, M.D., Vicksburg  
Thomas Joiner, Jackson

**ALSO PRESENT:**

Stan T. Ingram, Complaint Counsel for the Board  
Kenneth Cleveland, Executive Director  
Mike Lucius, Deputy Director  
Anna Boone, Interim Director, Licensure Division  
Leslie Ross, Director of Investigations  
Kristin Wallace, Clinical Director of Physician Compliance  
Jonathan Dalton, Investigations Supervisor  
Frances Carrillo, Staff Officer  
Wesley Breland, Hattiesburg, Consumer Health Committee  
Major General (Ret.) Erik Hearon, Consumer Health Member  
Hope Ladner, The Clay Firm

The meeting was called to order at 1:01 p.m., by Dr. Rea. Dr. Rea welcomed Melissa Magee, Court Reporter. Dr. Rea opened the meeting to discuss the changes made in the proposed regulation Part 2635, Chapter 15, Hospice Practice, Rule 15.1 In-Home Hospice Good Faith.

Mr. Ingram advised the record should reflect this is an oral proceeding conducted under the Mississippi Administrative Procedures Law.

Dr. Rea requested each speaker identify who they represent, and they will have five minutes to speak on an issue reserving questions and comments for the end of the meeting.

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### **Dr. Rea recognized Bill Grantham, M.D., Mississippi Academy of Family Physicians**

Dr. Grantham thanked Dr. Rea and the Board in allowing him to speak on behalf of the Mississippi Academy of Family Physicians.

Dr. Grantham advised that the Mississippi Academy of Family Physicians does not support regulations that ties prescriptive authority to elements outside the physician's control. Dr. Grantham stated there are many reasons for people to fall out of live discharge and recommended more dialogue and specific language regarding this issue.

Dr. Grantham stated the language regarding "active recruitment, unprofessional conduct" clause in the regulation is too vague and asked that this be more defined.

### **Dr. Rea recognized Edgar Hull, M.D., Medical Director, Hospice of Light**

Dr. Hull thanked the Board for agreeing to reconsider the rules for prescriptions of controlled substances for patients admitted to hospice programs. Dr. Hull stated he understands that the Board has concerns about whether the patients admitted to and discharged from hospice programs might be a source of drugs to their family and the community on discharge. Dr. Hull discussed the "live discharge rate" as in the various reasons patients may be discharged. He also discussed the matter of recruitment to hospice by physicians. He stated he thinks it's appropriate to recommend his hospice to his patients, accompanied by a statement that they are free to choose any licensed facility.

### **Dr. Rea recognized Paul Matherne, M.D., Family Practice**

Dr. Matherne introduced himself as a practicing family physician and a medical director of a hospice on the Mississippi coast. He advised that does refer the patients in his family practice to the hospice that he serves as a medical director. He felt that he can better follow them as the medical director, but his patients are free to choose any other hospice programs.

Dr. Matherne stated he feels the wording in the regulation regarding recruitment was too broad for a better definition as what is considered unprofessional conduct.

### **Dr. Rea recognized Nathan D. Boles, M.D., Director Hospitalists, Memorial Hospital at Gulfport**

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Dr. Boles introduced himself to the Board as the head of a hospitalist group, board certified in palliative care and the medical director for a Hospice. He stated that he agreed with what the other physicians have said about the language in the regulation concerning “live discharges” and “recruitment” is too broad and should be defined

**Dr. Rea recognized Luke Lampton, M.D. , Medical Director, Hospice Compassus-McComb – Katherine T. Patterson, MD, Indianola Family Medical Group**

Dr. Patterson introduced herself to the Board and advised that Dr. Lampton was not able to make this meeting and was taking his place to speak. Dr. Patterson discussed the issue of “live discharge” in treating hospice patients.

**Dr. Rea recognized Jamey Boudreaux, Executive Director, Louisiana~Mississippi Hospice and Palliative Care Organization / LMHPCO**

Mr. Boudreaux discussed the “live discharge” rate for Mississippi and nationally for the time period from 2014 to 2017. He outlined the reasons for discharges under the Medicare hospice benefit. Mr. Boudreaux stated the social determinants of health and early death may explain the 9 percent difference in Mississippi.

**Dr. Rea recognized David Roberts, Director of Government Affairs and Claude Brunson, M.D., Executive Director, Mississippi State Medical Association (MSMA)**

Mr. Roberts introduced himself to the Board with MSMA representing the physicians of Mississippi and MSMA. He reported that MSMA supports the established traditional physician-patient relationship and that position has not changed and that it should be preserved. This should not be an exclusion for any specialty, but that the physician-patient relationship should be maintained.

Dr. Brunson added that MSMA had a discussion about the rate of live discharge in Mississippi as compared to the rest of the country. Dr. Brunson recommended to the Board to seek the reason for this significant difference to make certain Mississippi patients are receiving care outlined as in the National standard across the state.

**Dr. Rea recognized Randy Easterling, M.D., Vicksburg Mississippi**

Dr. Easterling introduced himself to the Board as a physician that practices family medicine and addiction medicine in Vicksburg, MS. He stated that he did not oppose or support the regulations as discussed but to say that he is unalterably opposed to any alternative method that this board would adopt that would allow physicians to write prescriptive medications, certainly controlled medications, for patients they have never examined and have never seen.

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Dr. Easterling briefly summarized the history of the Medical Board's regulatory process of the Hospice regulation when he was serving as a Board Member. He shared his discussions with board members from across the country and he could not find an exemption for hospice physicians on having to see a patient at least one time in the course of their treatment.

The Board's passing of the amended Chapter 2640 regulations, Dr. Easterling reported Opioid prescriptions in Mississippi are down 10.4% and drug overdose deaths are down 15% in Mississippi from 2018 less than a year from when these rules were adopted.

In closing, Dr. Easterling stated that hospice oversight in Mississippi is very poor and the live discharge rates very high. The Board has made every effort to work with the Hospice medical directors for the past five years, the exemption of not seeing the patient at least one time during their course of treatment was not given.

### **Dr. Rea recognized Lt. John Harless Mississippi Bureau of Narcotics**

Lt. Harless thanked the Board for the opportunity to make some brief remarks. He stated our job is not to define what's good medicine but to coordinate with the Board on these cases involving hospice patients when they say they've never met the doctor. Lt Harless reported finding cardboard boxes of medicine, of large quantities of pharmaceuticals that family members, neighbors, caregivers have access to and the diversion from that access.

Lt. Harless also shared reports of following reports drug overdoses and arrests of school children where the medications were obtained from hospice patients that were not able to ingest but where prescriptions were continued to be issued.

### **Dr. Rea recognized Ed Henning, DEA Tactical Diversion Group Supervisor**

Mr. Henning introduced himself to the Board and summarized DEA's duties which he primarily works with the diversion cases and to remain informed and monitor. He stated DEA's primary interest is to reduce any opportunity of diversion. Mr. Henning stated he will continue to work closely with the Mississippi Bureau of Narcotics and the Medical Board.

Dr. Rea briefly recapped the Board's efforts in drafting the regulation with the primary purpose to provide the best care and protect the patients in the state of Mississippi. Additional discussion continued regarding prescribing opioids, recruiting, live discharge rate and the relationship between hospice physicians and patients.

Dr. Miles requested that Ms. Ashley Thompson share information with the Board.

**Dr. Rea recognized Ashley Thompson, Mississippi Academy of Family Physicians**

Ms. Thompson introduced herself to the Board representing the Mississippi Academy of Family Physicians. She is a licensed attorney in Mississippi and represent family physicians' interest at the Capitol as a lobbyist. Ms. Thompson proceeded to report her findings of state law and administrative codes from all of the 50 states. She stated that Mississippi would not be the only state with exemptions, in some cases specific to hospice.

**Additional Discussion by The Board Members and Speakers**

**Dr. Rea recognized Will Thompson, M.D.**

Dr. Thompson introduced himself to the Board, as a family physician from Yazoo City and medical director of a hospice. Dr. Thompson stated that he was seeking clarification in the requirement of establishing a proper doctor / patient relationship in prescribing medications. He discussed and reviewed the team-based approach in utilizing physician extenders / nurse practitioners. Dr. Thompson asked the Board to not punish the physicians that are doing it right while trying to solve the problem of the fraud.

After discussion Dr. Rea thanked everyone for participating in this oral hearing and reported that the Board will consider all the comments and review the proposed hospice regulation to be presented at the next meeting.

The official account of this proceeding was recorded by Melissa Magee, Court Reporter, Aspire Reporting, LLC.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 2:40 pm.



**Charles Miles, M.D., Chair**  
**Rules, Regulation & Legislative Committee**

**Minutes taken and transcribed**  
**By Frances Carrillo**  
**Staff Officer**  
**September 18, 2019**