

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
DECEMBER 16, 2019

A special telephonic meeting of the Mississippi State Board of Medical Licensure was held on December 16, 2019, in the Executive Conference 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
Charles D. Miles, M.D., West Point
C. Kenneth Lippincott, M.D., Tupelo
Kirk L. Kinard, D.O., Oxford
H. Allen Gersh, M.D., Hattiesburg
Daniel Edney, M.D., Vicksburg
Thomas Joiner, M.D., Jackson

ALSO PRESENT:

Stan T. Ingram, Complaint Counsel for the Board
Gloria Green, Special Assistant Attorney General
Kenneth Cleveland, Executive Director
Mike Lucius, Deputy Director
Anna Boone, Director, Licensure Division
Leslie Ross, Director of Investigations
Kristin Wallace, Clinical Director of Physician Compliance
Jonathan Dalton, Investigations Supervisor
Frances Carrillo, Staff Officer

NOT PRESENT:

Michelle Y. Owens, M.D., Jackson, Secretary
Major General (Ret.) Erik Hearon, Consumer Health Committee
Wesley Breland, Hattiesburg, Consumer Health Committee
Shoba Gaymes, Jackson, Consumer Health Committee

The conference call meeting was called to order at 9:00 a.m. by Dr. Rea, President. After roll call, Dr. Rea verified that there was a quorum present for this conference call meeting.

Part 2635 Chapter 15, Hospice Practice, Rule 15.1, In-Home Hospice Good Faith – Final Adopt

After discussion a motion was made by Dr. Gersh, seconded by Dr. Edney to strike the word “fully” in paragraph i). Voting aye: Dr. Rea, Dr. Lippincott, Dr. Gersh, Dr. Kinard, Dr. Edney, Dr. Joiner; Voting No: Dr. Miles.

After discussion, Dr. Rea called for a vote to adopt the regulation, Title 30: Part 2635, Chapter 15: Hospice Practice, Rule 15.1.,the regulation as amended. A motion was made by Dr. Lippincott seconded by Dr. Miles. Voting aye: Dr. Rea, Dr. Lippincott, Dr. Gersh, Dr. Kinard, Dr. Edney, Dr. Joiner, Dr. Miles.

§73-25-27 Approval of an Investigative Subpoena 12122019LR

§73-25-27 Approval of an Investigative Subpoena 12122019MS

Authorization to issue investigative subpoenas pursuant to Miss Code Ann. §73-25-27 pertaining to an investigations of a license in Cases No. 12122019LR and 12122019MS.

A motion was made by Dr. Lippincott, seconded by Dr. Miles and carried to close the meeting to consider whether to enter into executive session on this matter.

A motion was made by Dr. Miles, seconded by Dr. Lippincott and carried that the Board enter into executive session to discuss whether to issue subpoenas regarding investigations of alleged misconduct and violations of the statutes and regulations governing the practice of medicine in case numbers 12122019LR and 12122019MS.

Dr. Cleveland announced to the public that the Board voted to go into executive session to discuss whether to issue subpoenas regarding investigations of alleged misconduct and violations of the statutes and regulations governing the practice of medicine in case numbers 12122019LR and 12122019MS.

After discussion a motion was made by Dr. Miles, seconded by Dr. Lippincott and carried that the Board authorize the issuance of investigative subpoenas in Case No. number 12122019LR.

After discussion a motion was made by Dr. Miles, seconded by Dr. Lippincott and carried that the Board authorize the issuance of investigative subpoenas in Case No. number 12122019MS.

Upon a motion by Dr. Gersh, seconded by Dr. Miles and carried unanimously, the Board came out of executive session.


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Dr. Cleveland announced that in executive session the Board unanimously authorized the issuance of investigative subpoenas in case numbers 12122019LR and 12122019MS pertaining to allegations of unprofessional conduct and other violations of the Mississippi Medical Practice Act.

Pursuant Miss. Code Ann. §73-25-27, the Executive Director of the Board is hereby authorized to issue the aforementioned investigative subpoenas and this authorization shall be deemed an order entered on the minutes of the Board.

ADJOURNMENT

There being no further business, Dr. Rea adjourned the meeting at 9:30 a.m.


Jeanne Ann Rea, M.D.
President

Minutes taken and transcribed
By Frances Carrillo
Staff Officer
February 19, 2019

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 Mike Lucius	TELEPHONE NUMBER 601-987-0248	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 11/15/19	Name or number of rule(s): Part 2635 Chapter 15: Hospice Practice, Rule 15.1		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: New rule to establish practice standards for physicians practicing as a Hospice Medical Director.

Specific legal authority authorizing the promulgation of rule: Miss. Code Ann., §73-43-11

List all rules repealed, amended, or suspended by the proposed rule: None

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: <input checked="" type="checkbox"/> New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed final effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: _____ Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Mike Lucius, Deputy Director

Signature of person authorized to file rules: *Mike Lucius*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by <u>#24572 <i>[Signature]</i></u>	Accepted for filing by

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

Part 2635 Chapter 15: Hospice Practice

Rule 15.1 In-Home Hospice Good Faith

Recognizing the unique team-based approach utilized when treating in-home hospice patients, the following represents four factors required to establish a proper physician-patient relationship:

- i) The medical director must receive an order from the treating/referring physician requesting the patient be admitted for hospice care. Self-referral by the physician medical director may be necessary, and on those occasions, a second physician must be consulted to affirm the decision for hospice admission. Physician Medical Directors who self-refer a patient to their hospice, or to any hospice with whom the director has a contractual relationship, must obtain fully informed consent from the patient. Additionally, Physician Medical Directors must disclose to the primary care provider for the patient, in writing, that the patient has been admitted to hospice;
- ii) That the treating hospice physician or medical director has thoroughly reviewed the medical records of the patient, as provided by the referring physician, has documented the review, and has determined just cause exists for hospice admission (expected death in six months or less), with documented follow-up review at every certification period thereafter;
- iii) That the actions of the physician are deemed within the course of legitimate professional practice, as defined by the Centers for Medicare and Medicaid Services (CMS); and
- iv) That an evaluation of the patient occurs no later than thirty (30) days after the admission of the patient to hospice. The evaluation shall consist of either a face to face with the physician, face to face with a mid-level provider (PA or APRN), or a telemedicine visit by the medical director with nursing support in the home. Regardless of how the evaluation is accomplished, the author of any controlled substance prescriptions must have evaluated the patient within the thirty (30) day time-period.

It shall be considered unprofessional conduct for a medical director to participate in active recruitment for patient admission to hospice. For the purposes of this regulation, the term “active recruitment” shall mean any unsolicited interaction with a patient for the purposes of convincing a patient to enroll in hospice. As an example: having hospice staff or affiliates visit nursing home patients, with whom the physician has no prior relationship, for the ultimate purpose of soliciting their enrollment in hospice.

It shall be considered unprofessional conduct for physicians to document participation at Inter-Disciplinary Group (IDG)¹ meetings when they did not attend the meeting(s).

Nothing in this section shall preclude a hospice physician from fulfilling their duties to provide physician services as needed to hospice patients.

¹ As defined in The Social Security Act, Title 18, §1861 (dd)(2)(B), as amended.