

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
IN THE MATTER OF PHYSICIAN'S LICENSE**

**OF**

**TIMOTHY SUMMERS, M.D.**

**SUMMONS**

**TO: TIMOTHY SUMMERS, M.D.  
4513 7<sup>th</sup> Avenue  
Meridian, MS 39305**

**LICENSE NUMBER 07197**

**YOU ARE HEREBY SUMMONED** to appear before the Mississippi State Board of Medical Licensure in its Executive Conference Room, 1867 Crane Ridge Drive, Suite 200-B, Jackson, Hinds County, Mississippi, on Thursday, July 19, 2018, at 10:00 A.M., to answer the charges filed against you in the matter now pending before this Board. The Mississippi State Board of Medical Licensure, charged by law with the licensing of medical doctors in this state, under Title 73, Chapter 25, Miss. Code Ann., charges that you, a physician duly licensed under the authority of the Mississippi State Board of Medical Licensure and the laws of the State of Mississippi, are guilty of failing to produce patient records for inspection; of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice; of failing to maintain patient records for controlled substances prescribed; of failing to identify the name, dose, strength, quantity of the controlled substances and the date that the

controlled substances were prescribed; of prescribing, administering, or dispensing an amphetamine or amphetamine-like anorectic and/or central nervous system stimulant classified in Schedule II for the exclusive treatment of obesity, weight control or weight loss; and of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.

Pursuant to Subsection (3), (8)(d), (12), and (13) of § 73-25-29, § 73-25-83(a), and § 41-29-139(3)(e), Miss. Code Ann., as amended, such action constitutes grounds for which the Mississippi State Board of Medical Licensure may place your license on probation, the terms of which may be set by the Board, suspend your right to practice for a time deemed proper by the Board, revoke your Mississippi medical license or take any other action in relation to your license as the Board may deem proper under the circumstances.

The Mississippi State Board of Medical Licensure further advises that you have the right to be present at the hearing, to be represented by counsel, to produce witnesses or evidence on your behalf, to cross-examine witnesses and to have subpoenas issued on your behalf by this Board. A full text of the Board's Rules of Procedure can be found at the Board's website [www.msbml.ms.gov](http://www.msbml.ms.gov) or can be obtained from the Board office. By service of this Summons and attached Rules, you are deemed to be fully advised of the same.

You are further advised that, pursuant to the Board's Rules of Procedure, you must file an answer or response to this Summons/Affidavit within fifteen (15) days of the date you receive the same or all matters asserted therein shall be deemed admitted.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20 day of

June, 2018.

A handwritten signature in black ink, appearing to read "Ken Cleveland". The signature is written in a cursive style and is positioned above a horizontal line.

Kenneth E. Cleveland, M.D.  
Executive Director  
Mississippi State Board of Medical Licensure

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20 day of  
June, 2018.



Kenneth E. Cleveland, M.D.  
Executive Director  
Mississippi State Board of Medical Licensure



I, \_\_\_\_\_  
personally served this  
subpoena/summons on  
Timothy Summers, MD  
6:315 PM  
This the 22 day of June, 2018.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

TIMOTHY SUMMERS, M.D.

STATE OF MISSISSIPPI

COUNTY OF HINDS

AFFIDAVIT

I, Jonathan Dalton, Investigations Supervisor, Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," do hereby make oath that I have reason to believe and do believe:

1. That Timothy Summers, M.D., hereinafter referred to as "Licensee," is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 07197, said license is current through June 30, 2018. Licensee reports his area of practice to be Psychiatry.
2. That a records check on June 20, 2018, with the U.S. Drug Enforcement Administration (DEA) indicated that Licensee's Uniform Controlled Substance Registration Certificate No. AS2332245 was issued most recently on February 3, 2016, with an expiration date of February 28, 2019, and includes prescriptive authority in schedules II, IIN, III, IIIN, IV, and V. Licensee also maintains an "X" modifier under the Drug Addiction Treatment Act of 2000 (DATA) which allows Licensee to treat up to thirty (30) patients with Suboxone products for opioid and heroin addiction.

3. That on May 19, 2017, Affiant was contacted by an Agent of the Mississippi Bureau of Narcotics (MBN) regarding prescriptions having been issued by Licensee on the prescription pad of East Mississippi State Hospital (EMSH), which was identified by the Agent as Licensee's former place of employment. Stated differently, Licensee had issued controlled substance prescriptions using a prescription pad for a facility where he no longer was employed. Affiant provided contact information for the Agent to utilize in contacting Licensee and offered to assist the Agent in meeting with Licensee to discuss the use of prescription pads which sounded misleading in nature. The Agent provided additional information, such as the type of medication allegedly authorized by Licensee, which led Affiant to believe investigation by the Board was necessary.
4. That, pursuant to the aforementioned contact with MBN, Affiant obtained a Mississippi Prescription Monitoring Program (PMP) report evidencing controlled substance prescribing of Licensee from May, 2016, to May, 2017. Said report revealed a number of patients obtaining controlled substances via prescriptions from Licensee generally deemed as outside the normal scope of a Psychiatrist (e.g., opioids, cough syrup, etc.). Review of Board records indicated Licensee provided a residential address in Meridian, MS, as his primary practice location. Further, review of the PMP also revealed that several patients were travelling some distance to obtain said prescriptions from Licensee (e.g., Jackson). With this information in hand, and with several patient records selected for review, Affiant worked with the MBN Agent to setup a time to attempt to locate Licensee.

5. That on May 22, 2017, Affiant travelled to Meridian to meet with the MBN Agent and attempt to make contact with Licensee. The Agent revealed to Affiant that one prescription in particular, issued for Promethazine with Codeine, was refused on at least two (2) different occasions before a pharmacist finally filled the prescription. According to the Agent, one of the pharmacists made telephone contact with Licensee and inquired as to the authenticity of said prescription. Licensee was alleged to have informed the pharmacist that he authored the questioned cough syrup prescription for six (6) ounces, and not sixteen (16) ounces as it was presented to the pharmacy. When told affirmatively by the pharmacist that the prescription as presented indicated sixteen (16) ounces instead of six (6), Licensee's alleged response was, "ok, that's fine."

The Agent and Affiant attempted to contact Licensee via the phone numbers provided to the Board via his 2017 license renewal (office, cell, and home). A phone call placed to the cell phone number produced no response and a recording stated no voicemail existed. A phone call placed to the home phone number revealed the number was disconnected. Affiant was already aware that the office number provided was not valid due to the MBN Agent revealing he had spoken with Human Resources for EMSH, who in turn informed the Agent that Licensee no longer worked there. In reviewing the addresses provided, in addition to his home address as a primary practice location, Licensee provided a mailing address belonging to the Bradley A. Sanders Adolescent Complex (an addiction/mental health center affiliated with EMSH). Affiant contacted said facility by phone and was informed Licensee no longer worked there. With no

other alternatives available, Affiant and the Agent travelled to Licensee's identified primary practice location: his home. Despite a dog barking, no answer was given to repeated knocks on the front door. Affiant left a business card and we departed the premises.

The Agent and Affiant parked at a convenient location and, again, attempted to contact Licensee by his cell number. Licensee answered on this attempt and Affiant fully identified himself to Licensee and explained the nature of the call. Licensee stated he would be out of town until Thursday of that week (May 25, 2017). Licensee inquired as to why Affiant needed to speak with him and was told that Affiant needed to discuss a few practice issues and review patient records. Shortly thereafter, our phone conversation was disconnected. Affiant attempted to re-connect with Licensee but was unable to do so. Affiant and the Agent agreed to make another attempt to speak with Licensee in June, as this was when our schedules lined up once again to do so.

6. That between May 22, 2017, and June 1, 2017, Affiant was contacted by Licensee regarding the aforementioned phone call and attempt to meet. Licensee asked the nature of the meeting and if Affiant could identify specific patients to review. Affiant explained to Licensee that information would be provided once we were face-to-face. Licensee stated that he wished to meet at the office of his attorney, Dennis Sweet, Esq. Affiant stated that was perfectly fine; however, Licensee would need to have his records available for inspection. Licensee assured Affiant this would not be an issue.

On another occasion, Affiant was contacted by Mr. Sweet, who also asked the nature of the meeting and Affiant provided similar information as provided to Licensee: in essence, that certain concerning prescribing patterns were identified and certain patient records needed to be produced for inspection. Mr. Sweet acknowledged this and asked if this was normal procedure for Board Agents. Affiant stated records review was the most common function performed by Board Agents. Mr. Sweet thanked Affiant for the information and provided June 1, 2017, at 10:00 A.M., as a time convenient to meet at his office to review records.

7. That on June 1, 2017, Affiant and the MBN Agent presented to the law offices of Mr. Sweet to interview Licensee and review patient records. As Affiant was working towards asking some initial questions of Licensee, Mr. Sweet interrupted and stated he wanted it to be clear that Affiant would not be reviewing any patient records of Licensee. Affiant inquired as to why, to which Mr. Sweet stated he had performed some legal research following our phone conversation, in conjunction with consulting Terris Harris, Esq., who Mr. Sweet identified as an expert in health law, and decided the Board did not have the right to randomly inspect patient records due to HIPAA (the Health Insurance Portability and Accountability Act of 1996). In sum, Mr. Sweet indicated that Affiant reviewing patient records would be a HIPAA violation.

Mr. Sweet read aloud the exemption statement found in 45 CFR 164.512(d) of HIPAA, which exempts healthcare oversight agencies, such as the Board, from the usual requirements for disclosures. Mr. Sweet stated that, in his and Mr.

Harris' legal opinions, the Board did not have the right to inspect records absent a formal complaint specifically from a patient.

Affiant advised Mr. Sweet that he was incorrect in his position on HIPAA. Affiant retrieved a copy of the above mentioned exemption and stated the Board was, in fact, exempt under the statute as a health care oversight agency. Mr. Sweet continued to disagree and asked if Affiant could produce case law to 'back up' his position. Affiant then turned to Licensee and explained that Affiant understood Licensee's counsel was advising Licensee against cooperating; however, if Affiant did not review records that day, Licensee would be brought in front of the Board. Affiant was then accused by Mr. Sweet of extorting Licensee. Affiant again explained that the request in no way violated federal law and, further, and with all due respect to HIPAA, the federal government did not license Licensee, the Board did.

At this time, the MBN Agent spoke briefly with Licensee regarding the prescriptions mentioned previously, despite Mr. Sweet's protests. Licensee provided a different account of the conversation with the pharmacist noted previously. Despite his verbal acknowledgement that at least one (1) prescription discussed was, in fact, a forgery/altered prescription, Mr. Sweet advised Licensee not to sign any declaration statements which would affirmatively state Licensee did not author the prescriptions as presented to the pharmacies. Licensee then refused to sign the declaration statement.

8. That Title 30, Part 2640 Chapter 1: *Rules Pertaining to Prescribing, Administering and Dispensing Medication, Rule 1.4 Maintenance of Records and*

*Inventories, Patient Record, of the Administrative Code of the Board states, in part:*

*“A Physician who prescribes, dispenses or administers a controlled substance shall maintain a complete record of his or her examination, evaluation and treatment of the patient which must include documentation of the diagnosis and reason for prescribing, dispensing or administering any controlled substance; the name, dose, strength, quantity of the controlled substance and the date that the controlled substance was prescribed, dispensed or administered. The record required by this rule shall be maintained in the patient’s medical records, provided that such medical records are maintained at the office of the physician and are available for inspection by the representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.”*

#### **COUNT I**

**Based on the foregoing, Licensee is guilty of failing to produce patient records for inspection as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board’s Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(12).**

#### **COUNT II**

**Based on the foregoing, Licensee is guilty of unprofessional conduct, which includes, but is not limited to being guilty of any dishonorable or unethical conduct likely to deceive, defraud, or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a), as amended.**

9. That on June 15, 2017, and pursuant to the denial of records inspection on June 1, 2017, Affiant obtained Administrative Inspection and Search Warrants for Licensee’s primary practice location (his home) and his DEA registered location (Alliance Health Center – Meridian) in order to obtain certain patient records for

review and inspection. Prior to meeting with the Circuit Judge to have said warrants signed, Affiant observed a moving truck in the driveway of Licensee's home. Upon obtaining signatures on the warrants, Affiant executed the search warrant on the home of Licensee with assistance from the East Mississippi Narcotics Task Force.

Licensee was provided a copy of the warrant and the nature of the service was explained. Licensee stated Affiant being at the Licensee's home was, "outrageous." Affiant explained to the Licensee that a warrant was necessary, as Licensee had refused, under the advice of counsel, to produce the records previously. Licensee wished to speak with his counsel, Dennis Sweet, Esq., and was afforded privacy to do so. A few minutes later, Licensee returned to the living room of the home and stated he was unable to reach his counsel at that time. Affiant pointed out the Master Patient List attached to the warrant and, after briefly glancing at the list of nine (9) patient names, Licensee stated he would retrieve the files.

Licensee proceeded to his master bedroom and retrieved the files from a box. After retrieving records for all but Patients 7 and 8, we returned to the living room to fill out the Acknowledgement and Receipt of Items Seized. Licensee carefully went through the files retrieved and marked them off the Master Patient List. When finished, Affiant inquired as to the whereabouts of the charts for Patients 7 and 8. Licensee hesitated and stated he would not discuss anything until he could speak with his counsel. Affiant took the time to explain to Licensee that he had been served a duly authorized search warrant and he was being afforded

every opportunity to produce the records indicated. Further, if Licensee did not produce the records indicated, the Board would not accept records produced after the warrant service, as their authenticity would be suspect. Licensee stated the moving truck had to leave at this time. Affiant told Licensee that Affiant would wait all night but Licensee needed to produce the records immediately. Licensee refused to do so and, further, refused to sign the Acknowledgement and Receipt of Items Seized. The entirety of the warrant service lasted approximately forty-five (45) minutes.

10. That on June 19, 2017, Affiant executed a search warrant authorized for Alliance Health Center (Alliance), located on Hwy 39 North in Meridian. As stated previously, this address was provided by Licensee to the DEA as his registered practice location (DEA certificate issued 2/3/16). Service was affected with the Alliance CEO, Jay Shehi, who, by and through his staff, provided a written statement that none of the patients identified on the Master Patient List were ever seen at Alliance by Licensee or any other providers. Licensee left employment with Alliance on May 8, 2013, and does not admit patients to that facility.
11. That also on June 19, 2017, and to further identify possible locations the patients may have been treated, Affiant travelled to EMSH to speak with the Director of Human Resources. Affiant was provided a written statement that Licensee's last day of employment was on November 1, 2016.
12. That on July 27, 2017, and to obtain even further clarification as to the possibility of records existing at EMSH, a letter was submitted to the Director of Human Resources for EMSH asking whether the patients listed on the Master Patient

List were ever treated at facilities affiliated with EMSH. On July 28, 2017, a response received via email indicated that no records were found indicating treatment of those individuals.

13. That Patient 7, as identified on the Master Patient List, received and filled the following prescriptions, including refills, for controlled substances issued by Licensee without the benefit of a patient record being produced either by legal request for inspection by Affiant or under Administrative Inspection and Search Warrant:

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
12/29/16	Norco 7.5-325mg	60
5/10/17	Tylenol #3	60
	<b>Total Dosage Units:</b>	<b>120</b>

### COUNT III

Based upon the foregoing, Licensee is guilty of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, all in violation of Miss. Code Ann., §73-25-29(3).

### COUNT IV

Based on the foregoing, Licensee is guilty of failing to maintain patient records for controlled substances prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).

**COUNT V**

**Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).**

14. That Patient 8, as identified on the Master Patient List, received and filled the following prescriptions, including refills, for controlled substances issued by Licensee without the benefit of a patient record being produced either by legal request for inspection by Affiant or under Administrative Inspection and Search Warrant:

<b><u>Date Written or Refilled</u></b>	<b><u>Drug Name &amp; Strength</u></b>	<b><u>Quantity</u></b>
10/18/14	Adderall 30mg	60
12/10/14	Adderall 30mg	60
1/13/15	Adderall 30mg	60
3/29/15	Adderall 30mg	30
3/29/15	Ativan 1mg	60
7/2/15	Ativan 2mg	60
7/2/15	Adderall 30mg	60
9/19/15	Lorazepam 2mg	60
10/8/15	Adderall 30mg	60
11/9/15 (refill)	Lorazepam 2mg	60
12/18/15	Adderall 30mg	60

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
1/19/16	Lorazepam 2mg	60
2/13/16	Adderall 30mg	60
4/2/16	Adderall 30mg	60
4/2/16	Ativan 2mg	90
5/28/16	Adderall 30mg	60
7/24/16	Adderall 30mg	60
7/24/16	Lorazepam 2mg	90
9/12/16	Adderall 30mg	60
10/27/16	Lorazepam 2mg	60
11/10/16	Adderall 30mg	60
12/29/16	Diazepam 10mg	30
1/9/17	Adderall 30mg	60
1/17/17 (refill)	Lorazepam 2mg	60
3/20/17	Lorazepam 2mg	60
3/21/17	Adderall 30mg	60
6/1/17 (refill)	Lorazepam 2mg	60
<b>Total Dosage Units:</b>		<b>1620</b>

**COUNT VI**

**Based upon the foregoing, Licensee is guilty of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the**

course of legitimate professional practice, all in violation of Miss. Code Ann., §73-25-29(3).

#### COUNT VII

Based on the foregoing, Licensee is guilty of failing to maintain patient records for controlled substances prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).

#### COUNT VIII

Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).

15. That review of the patient file produced for Patient 2, as identified on the Master Patient List, reveals a total of two (2) pieces of paper representing clinical progress notes, both of which are not dated. The first sheet indicates the patient, an approximately 49 year old female at the time, was complaining of severe dental pain with no money to see a dentist. The record indicates the patient has a severe abscess. The record then notes that 'Hydrocodone #28' was prescribed to the patient. No such prescription was located on the PMP to provide information on when the visit may have occurred.

The second sheet indicates complaints of depression, anxiety, and persistent back pain with stiffness. Licensee indicates prescriptions for three substances, including, "analgesic." There is again no date found to indicate when this visit

took place and, in both entries found in the file, Licensee failed to document the pertinent information required under the Board's Administrative Code regarding the controlled substances prescribed, e.g. failed to identify the name, dose, strength, quantity of the controlled substances and the date that the controlled substances were prescribed.

When retrieving the original prescriptions for review, a pharmacist commented that he spoke with Licensee previously regarding a prescription issued to Patient 2 on 4/12/17 for Norco 10-325mg #90. The pharmacist commented that the prescription, issued on an EMSH prescription blank, was not ordinary for a patient treated at a facility like EMSH. When asked about the prescription, Licensee, as stated by the pharmacist, indicated Patient 2 was not a patient at the facility but an employee of EMSH.

#### **COUNT IX**

**Based on the foregoing, Licensee is guilty of failing to identify the name, dose, strength, quantity of the controlled substances and the date that the controlled substances were prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).**

#### **COUNT X**

**Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).**

16. That Patient 2 received and filled the following prescriptions, including refills, for controlled substances issued by Licensee without the benefit of any entry whatsoever in the patient record produced under the aforementioned Administrative Inspection and Search Warrant:

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
11/29/14	Alprazolam 1mg	6
11/29/14	Alprazolam 1mg	40
4/20/16	Alprazolam 1mg	60
4/20/16	Norco 10-325mg	20
6/13/16	Norco 10-325mg	60
8/16/16	Norco 10-325mg	60
8/31/16	Norco 10-325mg	90
9/16/16	Norco 10-325mg	90
1/12/17	Alprazolam 2mg	30
1/13/17	Norco 7.5-325mg	30
4/12/17	Norco 10-325mg	90
<b>Total Dosage Units:</b>		<b>576</b>

**COUNT XI**

**Based upon the foregoing, Licensee is guilty of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, all in violation of Miss. Code Ann., §73-25-29(3).**

## COUNT XII

Based on the foregoing, Licensee is guilty of failing to maintain complete patient records for controlled substances prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).

## COUNT XIII

Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).

17. That review of the patient file produced for Patient 3, as identified on the Master Patient List, reveals clinical progress notes which range in date from October 12, 2015, to August 3, 2016. Said notes generally portray a patient diagnosed with anxiety, depression, and severe pain in the neck and shoulder due to a motor vehicle accident. A visit dated October 17, 2015, indicates the patient lives in Texas and returns to Mississippi to care for her mother and sister, both of whom are identified as having severe medical problems. The form utilized to affect this note is an ESMH form which states at the bottom, "(REVISED FEBRUARY 2016)." It is unclear how a note dated November 17, 2015, could appear on a form not created until three (3) months later.

Another entry of treatment on March 10, 2016, indicates Licensee, a Psychiatrist, treated the patient for a yeast infection. Based on a patient entry on June 27, 2016, the patient mentions how she saw an OB/GYN, after Licensee treated the

patient at least twice for vaginitis, and she stated the following in describing the experience with the OB/GYN, “. . . impressed with thoroughness of exam.” Medications such as Prozac, Valium, Hydrocodone cough syrup, and Hydrocodone tablets are prescribed to the patient over the course of treatment reflected in the record produced.

18. That Patient 3 received and filled the following prescriptions, including refills, for controlled substances issued by Licensee without the benefit of any entry whatsoever in the patient record produced under the aforementioned Administrative Inspection and Search Warrant:

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
8/25/14	Norco 7.5-325mg	30
11/19/14	Norco 7.5-325mg	30
11/19/14	Diazepam 10mg	40
1/31/15	Diazepam 10mg	50
5/4/15	Virtussin AC Syrup	120ml
5/6/15	Mucinex D Max Strength	24
5/8/15	Virtussin AC Syrup	120ml
9/12/16	Valium 10mg	40
4/17/17	Diazepam 10mg	30
4/28/17	Norco 7.5-325mg	60
<b>Total Dosage Units:</b>		<b>304</b>
<b>Total Liquid Dosage Units:</b>		<b>240ml</b>

#### COUNT XIV

Based upon the foregoing, Licensee is guilty of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, all in violation of Miss. Code Ann., §73-25-29(3).

#### COUNT XV

Based on the foregoing, Licensee is guilty of failing to maintain complete patient records for controlled substances prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).

#### COUNT XVI

Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).

19. That review of the patient file produced for Patient 4, as identified on the Master Patient List, reveals clinical progress notes which range in date from January 20, 2016, to May 16, 2017. Said notes generally portray a patient diagnosed with depression, excessive eating, trouble sleeping, and a skin rash. The progress notes form used are that of EMSH and state at the bottom, "(REVISED FEBRUARY 2016)." As stated with Patient 3 previously, it is unclear how notes from January of 2016 could appear on a form not in existence until February of 2016.

Of particular importance in the record for Patient 4 is the second note, dated January 26, 2016, which states under the impression portion, in part, "4. R/O ADHD-ADD." Notes in the file reflect the patient was diagnosed by Licensee with ADHD on February 8, 2016. Two notes in the chart (March 10, 2016, and May 4, 2016) correspond with prescriptions issued for Adderall 30mg #60, with no entry in said notes to reflect such issuance of Adderall. In addition, Licensee makes notes on January 26, 2016; February 8, 2016; February 17, 2016; and June 9, 2016, among others, which indicate Licensee was treating the patient for weight loss with Phentermine 37.5mg. One prescription for Phentermine was issued by Licensee on October 3, 2015, some three (3) months prior to the initial entry in the chart. In one particular note, dated July 20, 2016, Licensee states, in part, ". . . Adderall may ↓ appetite, ADHD, and improve mood, ↑ energy. . ." A note on October 22, 2016, states, in part, "Eating more c Adderall." The following note, dated November 21, 2016, states, in part, "Add phentermine for weight reduction: D/C Adderall. . ." While Licensee diagnosed the patient with ADHD, the use of Adderall appears to solely coincide with Licensee's decisions surrounding weight loss, which suggests that Licensee has actually used Adderall, a Schedule II stimulant, for the sole treatment of obesity, weight control or weight loss, in violation of state law.

#### COUNT XVII

**Based upon the foregoing, Licensee is guilty of prescribing, administering, or dispensing an amphetamine or amphetamine-like anorectic and/or central nervous system stimulant classified in Schedule II for the exclusive treatment of obesity, weight control**

or weight loss, in violation of Miss. Code Ann., §41-29-139(3)(e), all in violation of Miss. Code Ann., §73-25-29(3).

**COUNT XVIII**

**Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).**

20. That Patient 4 received and filled the following prescriptions, including refills, for controlled substances issued by Licensee without the benefit of any entry whatsoever in the patient record produced under the aforementioned Administrative Inspection and Search Warrant:

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
10/3/15	Norco 10-325mg	40
10/3/15	Adipex 37.5mg	30
12/29/15	Norco 7.5-325mg	30
1/22/16	Adipex 37.5mg	30
3/30/16	Adderall 30mg	60
5/12/16	Adderall 30mg	60
12/16/16	Norco 7.5-325mg	40
5/11/17	Promethazine w/Codeine Syrup	473ml <sup>1</sup>
5/11/17	Diazepam 10mg	30

<sup>1</sup> This prescription is believed to have been altered by the patient; however, Licensee has refused to cooperate with MBN regarding the validity of the quantity noted. See paragraph 5 above.

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
5/12/17	Adipex 37.5mg	30
5/15/17	Norco 10-325mg	28
<b>Total Dosage Units:</b>		<b>378</b>
<b>Total Liquid Dosage Units:</b>		<b>473ml</b>

**COUNT IX**

Based upon the foregoing, Licensee is guilty of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, all in violation of Miss. Code Ann., §73-25-29(3).

**COUNT XX**

Based on the foregoing, Licensee is guilty of failing to maintain complete patient records for controlled substances prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).

**COUNT XXI**

Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).

21. That review of the patient file produced for Patient 6, as identified on the Master Patient List, reveals clinical progress notes which range in date from February 2, 2016, to April 20, 2017. Notes generally portray a patient who is retired due to a

mental health illness and chronic pain issues. The patient is noted to have severe dental problems, with a description of tooth decay, major depression, and obsessive compulsive personality with paranoid feeling and psychotic decompensation when overly stressed beyond her coping abilities. The initial entry, dated February 2, 2016, notes, "a) Continue current therapy, b) psychotherapy." Although this is the initial entry in the file, there is a suggestion of previous care. As with other records noted previously which utilize forms created after the date indicated for the subject visit, one peculiar sequence of visits for Patient 6 is documented in the file as March 6, 2016; **April 20, 2017** <emphasis added>; and May 10, 2016. The visits noted April 20, 2017, and May 10, 2016, appear on the same progress note sheet.

22. That Patient 6 received and filled the following prescriptions, including refills, for controlled substances issued by Licensee without the benefit of any entry, or with an incomplete entry, in the patient record produced under the aforementioned Administrative Inspection and Search Warrant:

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
8/26/14	Diazepam 10mg	40
10/15/14	Tramadol 50mg	60
12/19/14	Diazepam 10mg	60
1/2/15	Temazepam 15mg	30
1/2/15	Norco 7.5-325mg	90
7/3/15	Norco 10-325mg	60

<u>Date Written or Refilled</u>	<u>Drug Name &amp; Strength</u>	<u>Quantity</u>
7/3/15	Diazepam 10mg	30
10/14/15	Valium 10mg	60
10/14/15	Norco 10-325mg	90
10/16/15(refill)	Diazepam 10mg	30
1/7/16	Valium 10mg	30
1/7/16	Norco 10-325mg	60
4/22/16(refill)	Diazepam 10mg	30
4/25/16	Norco 7.5-325mg	60
6/21/16(refill)	Diazepam 10mg	30
9/12/16	Norco 10-325mg	90
9/12/16	Valium 10mg	30
4/18/17	Diazepam 10mg	30
<b>Total Dosage Units:</b>		<b>910</b>

**COUNT XXII**

Based upon the foregoing, Licensee is guilty of administering, dispensing or prescribing narcotic drugs, or any other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, all in violation of Miss. Code Ann., §73-25-29(3).

**COUNT XXIII**

Based on the foregoing, Licensee is guilty of failing to maintain complete patient records for controlled

substances prescribed, as required in Title 30 Part 2640, *Rule 1.4 Maintenance of Records and Inventories* of the Board's Administrative Code, all in violation of Miss. Code Ann., § 73-25-29(13).

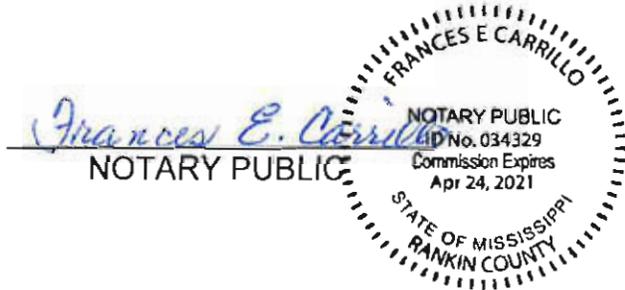
COUNT XXIV

Based upon the foregoing, Licensee is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).



Jonathan Dalton, CMBI  
Investigations Supervisor  
Mississippi State Board of Medical Licensure

SWORN TO AND SUBSCRIBED BEFORE ME, this the 20<sup>th</sup> day of  
June, 2018.



NOTARY PUBLIC  
NOTARY PUBLIC  
Commission Expires  
Apr 24, 2021  
STATE OF MISSISSIPPI  
RANKIN COUNTY

Complaint Counsel for the Mississippi State Board of Medical Licensure:

**Stan Ingram, Esq.**

Biggs, Ingram & Solop, PLLC  
111 Capitol Building  
111 East Capitol Street, Suite 101  
Jackson, Mississippi 39201  
Mailing Address:  
Post Office Box 14028  
Jackson, Mississippi 39236-4028  
(601) 713-6318  
(601) 713-9484 facsimile