

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 Jonathan Dalton	TELEPHONE NUMBER 601-987-3079	
ADDRESS 805 S. Wheatley St. — Ste. 600		CITY Ridgeland	STATE MS	ZIP 39157
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 9/22/26	Name or number of rule(s): 30 Miss. Admin. Code, Pt. 2635, Ch. 2 <i>Office-Based Surgery</i>		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Proposed revision of the section of the rules related to office-based surgery. The Board is amending the rules to remove outdated language related to equipment and medications, update and insert requirements related to training and record-keeping, and simplify the chapter overall.

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

List all rules repealed, amended, or suspended by the proposed rule: Pt. 2635, Ch. 2

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

____ Original filing
 ____ Renewal of effectiveness
 To be in effect in ____ days
 Effective date:
 ____ Immediately upon filing
 ____ Other (specify): _____

PROPOSED ACTION ON RULES

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): _____

FINAL ACTION ON RULES

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: Jonathan Dalton, Director of Investigations

Signature of person authorized to file rules: *Jonathan Dalton*

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

Part 2635: Chapter 2 Office-Based Surgery

Rule 2.1 | Scope. This regulation sets forth the requirements for office-based surgery rendered by individuals licensed to practice medicine and podiatry in the state of Mississippi.

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

Rule 2.2 | Definitions. For the purpose of Part 2635, Chapter 2 only, the following terms have the meanings indicated:

- A. **Surgery** is defined as any operative procedure, including the use of lasers, performed upon the body of a living human being for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes, to include, but not be limited to: incision or curettage of tissue or organ; suture or other repair of tissue or organ, including a closed as well as an open reduction of a fracture; extraction of tissue including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure. The use of local, general, or topical anesthesia and/or intravenous sedation is the prerogative of the surgeon.
- B. **Surgeon** is defined as a licensed physician performing any procedure included within the definition of surgery.
- C. Implicit within the use of the term “equipment” is the requirement that the specific item named must meet current performance standards.
- D. **Office-Based Surgery** is defined as surgery that is performed outside a hospital, an ambulatory surgical center, abortion clinic, or other medical facility licensed by the Mississippi State Department of Health or a successor agency. Physicians performing Level II or Level III office-based surgery must register with the Mississippi State Board of Medical Licensure via the Medical Enforcement and Licensure System (MELS) gateway.
- E. A **Surgical Event** is recognized as a potentially harmful or life-threatening episode related to either anesthesia or surgery. “Surgical Event” in the immediate perioperative period that must be reported are those which are life-threatening, requires special treatment, requires unplanned hospitalization within five (5) days of discharge, requires an unplanned transport of the patient from the surgery setting to a hospital emergency department, or requires an unplanned readmission to the office-based surgery setting within five (5) days of discharge.

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

Rule 2.3 | General Requirements for Office-Based Surgery. For all surgical procedures, the level of sterilization shall meet current OSHA requirements. The surgeon shall verify that the surgical facility complies with all applicable laws and regulations related to fire prevention, medical and hazardous waste storage and disposal, infection control, administration of controlled substances, and will be generally well-ordered and clean.

The surgeon must maintain complete records for each surgical procedure, including anesthesia records when applicable.

For all Level II and Level III cases, records must include:

- Written informed consent
- Confirmation of the patient's understanding of identified risks
- Consent to the procedure
- Type of anesthesia
- Identity of the anesthesia provider
- Notice to the patient that the Board regulates the surgeon and is subject to these regulations

The surgeon must also maintain a log of all Level II and Level III procedures, including:

- A confidential patient identifier
- Type of procedure performed
- Type of anesthesia used
- Duration of the procedure
- Type of post-operative care
- Any surgical events

Both the procedure log and all surgical records must be provided to investigators with the Mississippi State Board of Medical Licensure upon request.

A policy and procedure manual must be maintained in the office and updated annually. The policy and procedure manual must contain, at a minimum, the following: duties and responsibilities of all personnel, cleaning and infection control, and emergency procedures.

The surgeon shall report to the Mississippi State Board of Medical Licensure any surgical event occurring within the office-based surgical setting within 15 days after the occurrence of a surgical event. The report must be submitted via the MELS gateway.

A sign shall be prominently displayed in any office performing Level II or Level III office-based surgery, stating that the facility is regulated by the Mississippi State Board of Medical Licensure.

Office-based surgery facilities shall adhere to nationally recognized standards, such as those promulgated by the American Society of Anesthesiologists' Guidelines for Office-Based Anesthesia, specific to each level of office-based surgery described below, including but not limited to required training, required equipment and supplies, and whether the assistance of other personnel is necessary.

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

Rule 2.4 | Level I Office-Based Surgery.

A. Scope

1. Level I office-based surgery includes, but is not limited to, the following:
 - i. Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas, Loop Electrosurgical Excision Procedures (LEEP), laser cone of cervix, laser/cautery ablation of warts or other lesions, and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness.

- ii. Incision and drainage of superficial abscesses, limited endoscopies such as proctoscopies, flexible sigmoidoscopies, hysteroscopies, skin biopsies, arthrocentesis, paracentesis, dilation of the urethra, cystoscopy procedures, and closed reduction of simple fractures or small joint dislocations (i.e., finger and toe joints).
 - iii. Procedures requiring only topical, local, or no anesthesia. Light or no preoperative sedation should be required or used. No drug-induced alteration of respiratory effort or consciousness other than minimal pre-operative tranquilization of the patient is permitted in Level I Office-Based Surgery.
 - iv. Chances of complication requiring hospitalization are remote.
2. Standards for Level I Office-Based Surgery
- The surgeon's continuing medical education should include management of toxicity or hypersensitivity to local anesthetic drugs. The surgeon shall have and maintain Basic Life Support Certification (BLSC).

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

Rule 2.5 | Level II Office-Based Surgery.

A. Scope

- 1. Level II office-based surgery includes procedures in which oral, intravenous, intramuscular, or rectal perioperative medications or sedation are used. When such medications are administered, intraoperative and postoperative monitoring is required. These procedures involve sufficient sedation to allow the patient to tolerate unpleasant interventions while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal commands and/or tactile stimulation. Patients who exhibit only reflex withdrawal from painful stimuli are considered more deeply sedated than permitted under this level. Examples of Level II procedures include, but are not limited to hemorrhoidectomy, reduction of simple fractures, large joint dislocations, breast biopsies, dilatation and curettage, thoracentesis, and colonoscopy.
- 2. Any procedures that may yield an excessive loss of blood should be covered under Level II.

B. Transfer Agreement Required

The surgeon must have a written transfer agreement from a licensed hospital within reasonable proximity. The transfer agreement should also include physician coverage of transferred patients if the physician does not have privileges at the hospital.

C. Level of Anesthetic

- 1. Regional anesthesia, plus intravenous or intramuscular sedation, but with preservation of vital reflexes.
- 2. The use of nitrous oxide analgesics and sedation devices, or other equipment that produces similar sedating effects.

D. Requirements of a Qualified Surgeon

For Level II office-based surgery, the surgeon or podiatrist must:

- i. Have completed an American Board of Medical Specialties (ABMS) or American Board of Osteopathic Specialties (ABOS) recognized residency training program that covers the procedure performed. For podiatrists, have completed a Council on Podiatric Medical Education (CPME)-accredited residency program that includes training in the procedure performed;
- ii. Be certified, or board eligible, by an ABMS or ABOS-recognized board in the specialty that covers the procedure performed. For podiatrists, be certified, or board-eligible, by an approved podiatric specialty board in the surgical area relevant to the procedure performed;
- iii. Have and maintain current BLSC;
- iv. Ensure that at least one person who is present has current Advanced Cardiac Life Support (ACLS) certification, unless an anesthesiologist or certified registered nurse anesthetist is managing the anesthetic; and
- v. Maintain protocols that are updated and reviewed on an annual basis.

Waivers and Legacy Provision

If a licensee believes their education and training make them otherwise qualified, they may petition for a waiver of the requirements of i and ii.

A surgeon or podiatrist who, prior to the effective date of this regulation, has been lawfully performing Level II office-based surgical procedures may continue to do so without meeting the requirements of items (i) and (ii), provided that:

- The surgeon or podiatrist has an established and documented history of performing the specific Level II procedures in an office-based setting;
- The surgeon or podiatrist has maintained all other applicable professional licenses and certifications in good standing; and
- The surgeon or podiatrist meets all remaining requirements of this regulation, including BLS, ACLS, staffing, and protocol-maintenance obligations.

Any surgeon or podiatrist practicing under this legacy provision must provide documentation of prior experience upon request by the Mississippi State Board of Medical Licensure.

This legacy provision does not extend to new Level II procedures not previously performed by the surgeon or podiatrist. To perform additional procedures or to expand their scope, the surgeon or podiatrist must meet the full requirements in items (i) and (ii), or petition for a waiver as otherwise provided.

E. Equipment and Supplies Required

Licensees performing Level II office-based surgery shall maintain the appropriate equipment and supplies necessary to safely carry out each procedure and to manage any potential complications.

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

Rule 2.6 | Level III Office-Based Surgery.

A. Scope

1. Level III Office-Based Surgery is surgery which involves, or might foreseeably require, the use of perioperative sedation, regional anesthesia, deep sedation, or general anesthesia. This includes the use of:
 - i. Intravenous sedation beyond that defined for Level II office-based surgery;
 - ii. General Anesthesia: loss of consciousness and/or vital reflexes with potential requirement of external support of pulmonary or cardiac functions; or
 - iii. Regional Anesthesia.
2. Only patients classified under the American Society of Anesthesiologists' (ASA) risk classification criteria as Class I, II, or III are appropriate candidates for Level III office-based surgery. For ASA Class III patients, the surgeon must document in the patient's record the justification for an office procedure rather than other surgical venues. The record must also document precautions taken that make the office a preferred venue for the particular procedure to be performed.

B. Transfer Agreement Required

The surgeon must have a written transfer agreement from a licensed hospital within reasonable proximity. The transfer agreement must include physician coverage of transferred patients if the physician does not have privileges at the hospital.

C. Requirements of a Qualified Surgeon

For Level III office-based surgery, the surgeon or podiatrist must:

- i. Have completed an American Board of Medical Specialties (ABMS) or American Board of Osteopathic Specialties (ABOS) recognized residency training program that covers the procedure performed. For podiatrists, have completed a Council on Podiatric Medical Education (CPME)-accredited residency program that includes training in the procedure performed;
- ii. Be certified, or board eligible, by an ABMS or ABOS-recognized board in the specialty that covers the procedure performed. For podiatrists, be certified, or board-eligible, by an approved podiatric specialty board in the surgical area relevant to the procedure performed;
- iii. Have and maintain current BLSC;
- iv. Ensure that at least one person is present who has current advanced cardiac life support (ACLS) training; and

- v. Maintain protocols that are updated and reviewed on an annual basis, including emergency procedures related to serious anesthesia complications that are more frequently reviewed and posted in a conspicuous location.

Waivers and Legacy Provision

If a licensee believes their education and training make them otherwise qualified, they may petition for a waiver of the requirements of i and ii.

A surgeon or podiatrist who, prior to the effective date of this regulation, has been lawfully performing Level III office-based surgical procedures may continue to do so without meeting the requirements of items (i) and (ii), provided that:

- The surgeon or podiatrist has an established and documented history of performing the specific Level III procedures in an office-based setting;
- The surgeon or podiatrist has maintained all other applicable professional licenses and certifications in good standing; and
- The surgeon or podiatrist meets all remaining requirements of this regulation, including BLS, ACLS, staffing, and protocol-maintenance obligations.

Any surgeon or podiatrist practicing under this legacy provision must provide documentation of prior experience upon request by the Mississippi State Board of Medical Licensure.

This legacy provision does not extend to new Level III procedures not previously performed by the surgeon or podiatrist. To perform additional procedures or to expand their scope, the surgeon or podiatrist must meet the full requirements in items (i) and (ii), or petition for a waiver as otherwise provided.

D. Equipment and Supplies Required

Licensees performing Level III office-based surgery shall maintain the appropriate equipment and supplies necessary to safely carry out each procedure and to manage any potential complications.

**Adopted July 31, 2001. Amended April 18, 2002, with a June 1, 2002, effective date.
Amended September 19, 2002. Amended March 16, 2017.**

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

Part 2635: Chapter 2 Office-Based Surgery

Rule 2.1 | Scope. This regulation sets forth the ~~policies~~requirements of the Mississippi State Board of Medical Licensure ~~regarding~~ for office-based surgery rendered by individuals licensed to practice medicine, ~~osteopathic medicine,~~ and ~~podiatric medicine~~ podiatry in the state of Mississippi.

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

Rule 2.2 | Definitions. For the purpose of Part 2635, Chapter 2 only, the following terms have the meanings indicated:

- A. ***Surgery*** is defined as any operative procedure, including the use of lasers, performed upon the body of a living human being for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes, to include, but not be limited to: incision or curettage of tissue or organ; suture or other repair of tissue or organ, including a closed as well as an open reduction of a fracture; extraction of tissue including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure. The use of local, general, or topical anesthesia and/or intravenous sedation is the prerogative of the surgeon.
- B. ***Surgeon*** is defined as a licensed physician performing any procedure included within the definition of surgery.
- C. Implicit within the use of the term “equipment” is the requirement that the specific item named must meet current performance standards.
- D. ***Office-Based Surgery*** is defined as surgery ~~which~~that is performed outside a hospital, an ambulatory surgical center, abortion clinic, or other medical facility licensed by the Mississippi State Department of Health or a successor agency. Physicians performing Level II or Level III office-based surgery must register with the Mississippi State Board of Medical Licensure via the Medical Enforcement and Licensure System (MELS) gateway. ~~A copy of the registration form is attached hereto (Appendix A).~~
- E. A ***Surgical Event*** ~~for the purpose of this regulation~~ is recognized as a potentially harmful or life-threatening episode related to either ~~the anesthetic~~anesthesia or the surgery. ~~Any~~ “Surgical Event” in the immediate perioperative period that must be reported are those which are life-threatening, ~~or~~ require special treatment, ~~or~~ require unplanned hospitalization within five (5) days of discharge, or require an unplanned transport of the patient from the surgery setting to a hospital emergency department, or require an unplanned readmission to the office-based surgery setting within five (5) days of discharge, including, but not limited to the following: (1) serious cardiopulmonary or anesthetic events; (2) major anesthetic or surgical complications; (3) temporary or permanent disability; (4) coma; or (5) death.

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

Rule 2.3 | General Requirements for Office-Based Surgery. For all surgical procedures, the level of sterilization shall meet current OSHA requirements. The surgeon shall verify that the surgical facility complies with all applicable laws and regulations related to fire prevention, medical and

hazardous waste storage and disposal, infection control, administration of controlled substances, and will be generally kept well-ordered and clean.

~~The surgeon must maintain complete records of each surgical procedure, including anesthesia records, when applicable, and the records on all Level II and Level III cases shall contain written informed consent from the patient reflecting the patient's knowledge of identified risks, consent to the procedure, type of anesthesia, and the anesthesia provider.~~

~~The surgeon must maintain a log of all Level II and Level III surgical procedures performed, which must include a confidential patient identifier, the type of procedure, the type of anesthesia used, the duration of the procedure, the type of post-operative care, and any surgical events. The log and all surgical records shall be provided to investigators of the Mississippi State Board of Medical Licensure upon request.~~

The surgeon must maintain complete records for each surgical procedure, including anesthesia records when applicable.

For all Level II and Level III cases, records must include:

- Written informed consent
- Confirmation of the patient's understanding of identified risks
- Consent to the procedure
- Type of anesthesia
- Identity of the anesthesia provider
- Notice to the patient that the Board regulates the surgeon and is subject to these regulations

The surgeon must also maintain a log of all Level II and Level III procedures, including:

- A confidential patient identifier
- Type of procedure performed
- Type of anesthesia used
- Duration of the procedure
- Type of post-operative care
- Any surgical events

Both the procedure log and all surgical records must be provided to investigators with the Mississippi State Board of Medical Licensure upon request.

~~In any liposuction procedure, the surgeon is responsible for determining the appropriate amount of supernatant fat to be removed from a particular patient. Using the tumescent method of liposuction, the surgeon must fully document the anticipated amount of material to be removed in a manner consistent with recognized standards of care. Post-operatively, any deviation from the anticipated amount, and the reason for deviation, should be fully documented in the operative report. Morbidly obese patients should have liposuction performed in the hospital setting unless the surgeon can document significant advantage to an alternative setting.~~

A policy and procedure manual must be maintained in the office and updated annually. The policy and procedure manual must contain, at a minimum, the following: duties and responsibilities of all personnel, cleaning and infection control, and emergency procedures.

The surgeon shall report to the Mississippi State Board of Medical Licensure any surgical events ~~that occurring~~ within the office-based surgical setting. ~~This report shall be made~~ within 15 days after the occurrence of a surgical event. The report must be submitted via the MELS gateway. A suggested form for reporting is attached hereto (Appendix B). ~~The filing of a report of surgical event as required by this rule does not, in and of itself, constitute an acknowledgment or admission of malpractice, error, or omission. Upon receipt of the report, the Board may, in its discretion, obtain patient and other records pursuant to authority granted in Mississippi Code, Section 73-25-28.~~

~~The surgeon must have a written response plan for emergencies within his or her facility.~~

~~In offices where Level II and Level III office-based surgery is performed, a sign must be prominently posted in the office which that states that the office is a doctor's office regulated pursuant to the rules of the Mississippi State Board of Medical Licensure.~~ A sign shall be prominently displayed in any office performing Level II or Level III office-based surgery, stating that the facility is regulated by the Mississippi State Board of Medical Licensure.

Office-based surgery facilities ~~should~~shall adhere to nationally recognized standards, such as those promulgated by the American Society of Anesthesiologists' Guidelines for Office-Based Anesthesia, specific to each level of office-based surgery described below, including but not limited to required training, required equipment and supplies, and whether the assistance of other personnel is necessary. ~~or American Association of Nurse Anesthetists' Standards for Office-Based Anesthesia.~~

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

Rule 2.4 | Level I Office-Based Surgery.

A. Scope

1. Level I office-based surgery includes, but is not limited to, the following:
 - i. Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas, Loop Electrosurgical Excision Procedures (LEEP), laser cone of cervix, laser/cautery ablation of warts or other lesions, and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness.
 - ii. Incision and drainage of superficial abscesses, limited endoscopies such as proctoscopies, flexible sigmoidoscopies, hysteroscopies, skin biopsies, arthrocentesis, paracentesis, dilation of the urethra, cystoscopy procedures, and closed reduction of simple fractures or small joint dislocations (i.e., finger and toe joints).
 - iii. Procedures requiring only topical, local, or no anesthesia. ~~Only minimal~~Light or no preoperative sedation should be required or used. No drug-induced alteration of respiratory effort or consciousness other than minimal pre-operative tranquilization of the patient is permitted in Level I Office-Based Surgery.
 - iv. Chances of complication requiring hospitalization are remote.

2. Standards for Level I Office-Based Surgery

~~i. Training Required~~

The surgeon's continuing medical education should include management of toxicity or hypersensitivity to local anesthetic drugs. The surgeon's ~~continuing medical education~~ shall ~~include~~ have and maintain Basic Life Support Certification (BLSC).

~~ii. Equipment and Supplies Required~~

~~Oral airway, positive pressure ventilation device, epinephrine (or other vasopressor), corticosteroids, antihistamines and atropine, if any anesthesia is used. The equipment and skills to establish intravenous access must be available if any other medications are administered. The equipment and supplies should reflect the patient population, i.e., pediatrics, etc.~~

~~iii. Assistance of Other Personnel Required~~

~~No other assistance is required, unless the specific surgical procedure being performed requires an assistant.~~

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

Rule 2.5 | Level II Office-Based Surgery.

A. Scope

- ~~1. Level II Office surgery is that in which perioperative medication and sedation are used orally, intravenously, intramuscularly, or rectally. If perioperative or intraoperative medication is administered, intraoperative and postoperative monitoring is required. Such procedures include, but are not limited to: hernia repair, hemorrhoidectomy, reduction of simple fractures, large joint dislocations, breast biopsies, dilatation and curettage, thoracentesis, and colonoscopy.~~
- ~~2. Level II Office surgery also includes any surgery in which the patient is sufficiently sedated to allow the patient to tolerate unpleasant procedures while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal command and/or tactile stimulation. Patients whose only response is reflex withdrawal from a painful stimulus are sedated to a greater degree than encompassed by this definition.~~
3. Level II office-based surgery includes procedures in which oral, intravenous, intramuscular, or rectal perioperative medications or sedation are used. When such medications are administered, intraoperative and postoperative monitoring is required. These procedures involve sufficient sedation to allow the patient to tolerate unpleasant interventions while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal commands and/or tactile stimulation. Patients who exhibit only reflex withdrawal from painful stimuli are considered more deeply sedated than permitted under this level. Examples of Level II procedures include, but are not limited to: hemorrhoidectomy, reduction of simple fractures, large joint dislocations, breast biopsies, dilatation and curettage, thoracentesis, and colonoscopy.
4. Any procedures that may yield an excessive loss of blood should be covered under Level II.

B. Transfer Agreement Required

The surgeon must have a written transfer agreement from a licensed hospital within reasonable proximity. The transfer agreement should also include physician coverage of transferred patients if the physician does not have privileges at the hospital.

C. Level of Anesthetic

3. ~~Local or peripheral nerve block, including Bier Block~~Regional anesthesia, plus intravenous or intramuscular sedation, but with preservation of vital reflexes.
4. The use of nitrous oxide analgesics and sedation devices, or other equipment that produces similar sedating effects.

D. ~~Training Required~~Requirements of a Qualified Surgeon

~~To perform office-based surgery, the physician must be able to document satisfactory completion of surgical training, such as Board certification or Board eligibility by a Board approved by the American Board of Medical Specialties or American Board of Osteopathic Specialties. The certification should include training in the procedures performed in the office setting. Alternative credentialing for procedures outside the physician's core curriculum must be applied for through the Mississippi State Board of Medical Licensure and reviewed by a multi-specialty board appointed by the Director.~~

For Level II office-based surgery, the surgeon or podiatrist must:

- i. Have completed an American Board of Medical Specialties (ABMS) or American Board of Osteopathic Specialties (ABOS) recognized residency training program that covers the procedure performed. For podiatrists, have completed a Council on Podiatric Medical Education (CPME)-accredited residency program that includes training in the procedure performed;
- ii. Be certified, or board eligible, by an ABMS or ABOS-recognized board in the specialty that covers the procedure performed. For podiatrists, be certified, or board-eligible, by an approved podiatric specialty board in the surgical area relevant to the procedure performed;
- iii. Have and maintain current BLSC;
- iv. Ensure that at least one person who is present has current Advanced Cardiac Life Support (ACLS) certification, unless an anesthesiologist or certified registered nurse anesthetist is managing the anesthetic; and
- v. Maintain protocols that are updated and reviewed on an annual basis.

~~In addition to the surgeon, there must be at least one assistant certified in Basic Life Support present during any Level II or III procedure. There should be at least one person certified in Advanced Cardiac Life Support present during any Level II or III procedure unless there is an anesthesiologist or certified registered nurse anesthetist to manage the anesthetic.~~

Waivers and Legacy Provision

If a licensee believes their education and training make them otherwise qualified, they may petition for a waiver of the requirements of i and ii.

A surgeon or podiatrist who, prior to the effective date of this regulation, has been lawfully performing Level II office-based surgical procedures may continue to do so without meeting the requirements of items (i) and (ii), provided that:

- The surgeon or podiatrist has an established and documented history of performing the specific Level II procedures in an office-based setting;
- The surgeon or podiatrist has maintained all other applicable professional licenses and certifications in good standing; and
- The surgeon or podiatrist meets all remaining requirements of this regulation, including BLS, ACLS, staffing, and protocol-maintenance obligations.

Any surgeon or podiatrist practicing under this legacy provision must provide documentation of prior experience upon request by the Mississippi State Board of Medical Licensure.

This legacy provision does not extend to new Level II procedures not previously performed by the surgeon or podiatrist. To perform additional procedures or to expand their scope, the surgeon or podiatrist must meet the full requirements in items (i) and (ii), or petition for a waiver as otherwise provided.

E. Equipment and Supplies Required

Licensees performing Level II office-based surgery shall maintain the appropriate equipment and supplies necessary to safely carry out each procedure and to manage any potential complications.

- ~~1. Full and current crash cart at the location the anesthetizing is being carried out. The crash cart must include, at a minimum, the following resuscitative medications, or other resuscitative medication subsequently marketed and available after initial adoption of this regulation, provided said medication has the same FDA approved indications and usage as the medications specified below:~~
 - ~~i. — Adrenalin (epinephrine) Abboject 1mg-1:10,000; 10ml~~
 - ~~ii. — Adrenalin (epinephrine) ampules 1mg-1:1000; 1ml~~
 - ~~iii. — Atropine Abboject 0.1mg/ml; 5ml~~
 - ~~iv. — Benadryl (diphenhydramine) syringe 50mg/ml; 1ml~~
 - ~~v. — Calcium chloride Abboject 10%; 100mg/ml; 10ml~~
 - ~~vi. — Dextrose Abboject 50%; 25g/50ml~~
 - ~~vii. — Dilantin (phenytoin) syringe 250mg/5ml~~
 - ~~viii. — Dopamine 400mg/250ml pre-mixed~~
 - ~~ix. — Heparin 10,000 units/ml; 1 ml vial~~
 - ~~x. — Inderal (propranolol) 1mg/ml; 1 ml ampule~~
 - ~~xi. — Isuprel (isoproterenol) 1mg/5ml; 1:5000 ampule~~
 - ~~xii. — Lanoxin (digoxin) 0.5 mg/2ml ampule~~
 - ~~xiii. — Lasix (furosemide) 40 mg/4ml vial~~
 - ~~xiv. — Lidocaine Abboject 2%; 100mg/5ml~~
 - ~~xv. — Lidocaine 2 grams/500ml pre-mixed~~

- xvi. — Magnesium sulfate 50%; 20ml vial (1g/2ml)
- xvii. — Narcan (naloxone) 0.4mg/ml; 1ml ampule
- xviii. — Pronestyl (procainamide) 100mg/ml; 10ml vial
- xix. — Romazicon 5ml or 10 ml (0.1mg/ml)
- xx. — Sodium bicarbonate Abboject 50mEq/50ml
- xxi. — Solu-medrol (methylprednisolone) 125mg/2ml vial
- xxii. — Verapamil syringe 5mg/2ml —

The above dosage levels may be adjusted, depending on ages of the patient population.

- 2. ~~Suction devices, endotracheal tubes, laryngoscopes, etc.~~
 - 3. ~~Positive pressure ventilation device (e.g., Ambu) plus oxygen supply.~~
 - 4. ~~Double tourniquet for the Bier Block procedure.~~
 - 5. ~~Monitors for blood pressure/EKG/Oxygen saturation and portable approved defibrillator.~~
 - 6. ~~Emergency intubation equipment.~~
 - 7. ~~Adequate operating room lighting with onsite backup sufficient to supply required equipment perioperative equipment and monitors for a minimum of two (2) hours.~~
 - 8. ~~Sterilization equipment or facilities meeting Joint Commission requirements.~~
 - 9. ~~IV solution and IV equipment.~~
- F. Assistance of Other Personnel Required

In addition to the surgeon there must be at least one assistant certified in Basic Life Support present during any Level II or III procedure. There should be at least one person certified in Advanced Cardiac Life Support present during any Level II or III procedure unless there is an anesthesiologist or certified registered nurse anesthetist to manage the anesthetic.

A registered nurse may only administer analgesic doses of medications on the direct order of a physician. An assisting anesthesia provider, including nurse providing sedation, may not function in any other capacity during the procedure. If additional assistance is required by the specific procedure or patient circumstances, such assistance must be provided by a physician, registered nurse, licensed practical nurse, or operating room technician.

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

Rule 2.6 | Level III Office-Based Surgery.

A. Scope

- 1. Level III Office-Based Surgery is that surgery which involves, or might foreseeably require, the use of ~~a~~ perioperative sedation, regional anesthesia, deep sedation, or general anesthesia or major conduction anesthesia and perioperative sedation. This includes the use of:
 - i. Intravenous sedation beyond that defined for Level II office-based surgery;
 - ii. General Anesthesia: loss of consciousness and/or loss of ~~loss of~~ vital reflexes with probable potential requirement of external support of pulmonary or cardiac functions; or
 - iii. ~~Major Conduction anesthesia~~ Regional Anesthesia.
- 2. Only patients classified under the American Society of Anesthesiologist's (ASA) risk classification criteria as Class I, II, or III are appropriate candidates for Level III office-

based surgery. For ASA Class III patients, the surgeon must document in the patient's record the justification for an office procedure rather than other surgical venues. The record must also document precautions taken that make the office a preferred venue for the particular procedure to be performed.

B. Transfer Agreement Required

The surgeon must have a written transfer agreement from a licensed hospital within reasonable proximity. The transfer agreement must include physician coverage of transferred patients if the physician does not have privileges at the hospital. Level of Anesthetic

1. ~~General Anesthetic: loss of consciousness and loss of and/or vital reflexes with probable requirement of external support of pulmonary or cardiac functions.~~
2. ~~Major Conduction: epidural, spinal, caudal, or any block of a nerve or plexus more proximal than the hip or shoulder joint, including visceral nerve blocks.~~

C. Training RequiredRequirements of a Qualified Surgeon

1. ~~To perform office-based surgery, the physician must be able to document satisfactory completion of surgical training, such as board certification or board eligibility by a board approved by the American Board of Medical Specialties ABMS or American Board of Osteopathic Specialties ABOS. The certification should include training in the procedures performed in the office setting. Alternative credentialing for procedures outside the physician's core curriculum must be applied for through the Mississippi State Board of Medical Licensure and reviewed by a multi-specialty board appointed by the Executive Director.~~
2. ~~In addition to the surgeon, there must be at least one assistant certified in Basic Life Support present during any Level II or III procedure. There should be at least one person certified in Advanced Cardiac Life Support present during any Level II or III procedure unless there is an anesthesiologist or certified registered nurse anesthetist to manage the anesthetic.~~

For Level III office-based surgery, the surgeon or podiatrist must:

- i. Have completed an American Board of Medical Specialties (ABMS) or American Board of Osteopathic Specialties (ABOS) recognized residency training program that covers the procedure performed. For podiatrists, have completed a Council on Podiatric Medical Education (CPME)-accredited residency program that includes training in the procedure performed;
- ii. Be certified, or board eligible, by an ABMS or ABOS-recognized board in the specialty that covers the procedure performed. For podiatrists, be certified, or board-eligible, by an approved podiatric specialty board in the surgical area relevant to the procedure performed;
- iii. Have and maintain current BLSC;
- iv. Ensure that at least one person is present who has current advanced cardiac life support (ACLS) training; and
- v. Maintain protocols that are updated and reviewed on an annual basis, including emergency procedures related to serious anesthesia complications that are more frequently reviewed and posted in a conspicuous location.

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- ~~3. Emergency procedures related to serious anesthesia complications should be formulated, periodically reviewed, practiced, updated, and posted in a conspicuous location.~~

Waivers and Legacy Provision

If a licensee believes their education and training make them otherwise qualified, they may petition for a waiver of the requirements of i and ii.

A surgeon or podiatrist who, prior to the effective date of this regulation, has been lawfully performing Level III office-based surgical procedures may continue to do so without meeting the requirements of items (i) and (ii), provided that:

- The surgeon or podiatrist has an established and documented history of performing the specific Level III procedures in an office-based setting;
- The surgeon or podiatrist has maintained all other applicable professional licenses and certifications in good standing; and
- The surgeon or podiatrist meets all remaining requirements of this regulation, including BLS, ACLS, staffing, and protocol-maintenance obligations.

Any surgeon or podiatrist practicing under this legacy provision must provide documentation of prior experience upon request by the Mississippi State Board of Medical Licensure.

This legacy provision does not extend to new Level III procedures not previously performed by the surgeon or podiatrist. To perform additional procedures or to expand their scope, the surgeon or podiatrist must meet the full requirements in items (i) and (ii), or petition for a waiver as otherwise provided.

D. Equipment and Supplies Required

Licensees performing Level III office-based surgery shall maintain the appropriate equipment and supplies necessary to safely carry out each procedure and to manage any potential complications.

- ~~1. Equipment, medication and monitored post-anesthesia recovery must be available in the office. If anesthetic agents include inhaled agents, other than nitrous oxide, medications must include a stock of no less than 12 vials of Dantrolene.~~
- ~~2. The facility, in terms of general preparation, equipment, and supplies, must be comparable to a free-standing ambulatory surgical center, including, but not limited to, recovery capability, and must have provisions for proper record keeping.~~
- ~~3. Blood pressure monitoring equipment; EKG; end tidal CO2 monitor; pulse oximeter; precordial or esophageal stethoscope, emergency intubation equipment and a temperature monitoring device must be available for all phases of perioperative care.~~

- ~~4. Table capable of Trendelenburg and other positions necessary to facilitate the surgical procedure.~~
 - ~~5. IV solutions and IV equipment.~~
 - ~~6. All equipment and supplies listed under Part 2635, Rule 2.5, Level II.~~
- E. Assistance of Other Personnel Required
- ~~An anesthesiologist or certified registered nurse anesthetist must administer the general or regional anesthesia and a physician, registered nurse, licensed practical nurse, or operating room technician must assist with the surgery. The anesthesia provider may not function in any other capacity during the procedure. A licensed physician or a licensed registered nurse with post-anesthesia care unit experience or the equivalent, and credentialed in Advanced Cardiac Life Support, or in the case of pediatric patients, Pediatric Advanced Life Support, must be available to monitor the patient in the recovery room until the patient has recovered from anesthesia.~~

**Adopted July 31, 2001. Amended April 18, 2002, with a June 1, 2002, effective date.
Amended September 19, 2002. Amended March 16, 2017.**

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