

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 12/30/19	Name or number of rule(s): Part 2635 Chapter 5: Practice of Telemedicine, Rule 5.9		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: New rule to establish practice requirements for physicians who wish to dispense medications via technology/automated systems via telemedicine.

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List all rules repealed, amended, or suspended by the proposed rule: None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


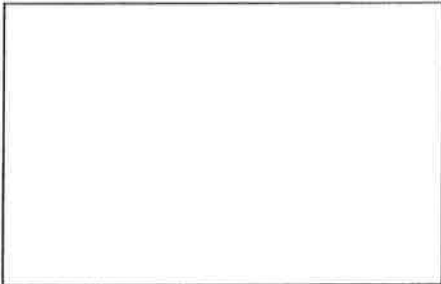

ECONOMIC IMPACT STATEMENT:

- 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: _____ 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): _____	Date Proposed Rule Filed: 7/30/19 Action taken: _____ Adopted with no changes in text <u> X </u> Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: <u> X </u> 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  Accepted for filing by	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by	OFFICIAL FILING STAMP  Accepted for filing by <u>H 24/005</u>
---	---	---

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

Part 2635 Chapter 5: Practice of Telemedicine

Rule 5.9 / Automated Dispensaries

Recognizing the emergence of sophisticated technology which allows certain levels of automation to the usual and customary process of seeing a provider, to include obtaining a prescription and then filling that prescription at a pharmacy, automated dispensary systems which provide the patient's medications pursuant to a valid telemedicine visit with a licensee of the Board will not be considered in violation of Part 2640, Rule 1.9 *Requirements for Dispensing Physicians*. Any physician utilizing the automated dispensary will be responsible for the proper maintenance and inventory/accountability requirements as if the physician were personally dispensing the medications to the patient from his or her stock in their personal practice, as required in Rule 1.9 of Part 2640. An automated dispensary may not dispense controlled substances, and refills of medications may not be issued without a follow-up visit with the physician.

Of paramount importance to any automated dispensary process is the continued emphasis on a patient's freedom of choice, as it pertains to selecting a pharmacy to fill any prescriptions authorized. The failure of any system utilizing an automated dispensary to appropriately advise the patient of his or her right to choose where their medications are filled will constitute a violation of Part 2640, Rule 1.12 *Freedom of Choice*.

Any telemedicine service devices or systems which contain automated dispensaries, containing medications ordered and maintained by physician licensees, shall be subject to the oversight of the Board and the Mississippi Board of Pharmacy, as stated in Part 2640, Rule 1.9, and may not operate in this state until approved by both Boards.

Rule 5.9 / Automated Dispensaries

Recognizing the emergence of sophisticated technology which allows certain levels of automation to the usual and customary process of seeing a provider, to include obtaining a prescription and then filling that prescription at a pharmacy, automated dispensary systems which provide the patient's medications pursuant to a valid telemedicine visit with a licensee of the Board will not be considered in violation of Part 2640, Rule 1.9 *Requirements for Dispensing Physicians*. Any physician utilizing the automated dispensary will be responsible for the proper maintenance and inventory/accountability requirements as if the physician were personally dispensing the medications to the patient from his or her stock in their personal practice, as required in Rule 1.9 of Part 2640. An automated dispensary may not dispense controlled substances, and refills of medications may not be issued without a follow-up visit with the physician.

Of paramount importance to any automated dispensary process is the continued emphasis on a patient's freedom of choice, as it pertains to selecting a pharmacy to fill any prescriptions authorized. The failure of any system utilizing an automated dispensary to appropriately advise the patient of ~~their~~ his or her right to choose where their medications are filled will constitute a violation of Part 2640, Rule 1.12 *Freedom of Choice*.

Any telemedicine service devices or systems which contain automated dispensaries, containing medications ordered and maintained by physician licensees, shall be subject to the oversight of the Board and the Mississippi Board of Pharmacy, as stated in Part 2640, Rule 1.9, and may not operate in this state until approved by both Boards.



RESOLUTION

WHEREAS, it is necessary for the Occupational Licensing Review Commission to issue a resolution regarding the approval or denial of specific rules submitted for its review:

NOW, THEREFORE, LET IT BE RESOLVED BY THE OCCUPATIONAL LICENSING REVIEW COMMISSION, that the following rules shall be known to have been approved by the Commission at a duly called meeting of its members on December 18, 2019, and may now be filed as final with the Secretary of State's Office for the inclusion in the Mississippi

Administrative Code:

- Rules of the Board of Architecture - Title 30, Part 201: Mississippi State Board of Architecture; Add a preamble explaining the purpose of the rules; amend Chapter 1 (Examinations) to streamline the application process to sit for the Architect Registration Examination; amend the fee schedule (Rule 2.4) to eliminate and reduce certain fees; amend Rule 3.2 (Practice Procedures) to clarify the rule; amend Chapter 4 (Professional Code of Conduct) to clarify the rules and add a requirement regarding an architect's responsibility to provide information regarding a licensure candidate's qualifications; amend Rule 5.1 to add factors the Board may consider when determining disciplinary penalties and to bring the rule into compliance with the "Fresh Start Act of 2019."

Approved as amended to remove paragraph 4 of the preamble to Part 201 and to

substitute the word 'shall' for the word 'may' in the first sentence of the third paragraph of Part 201, Rule 5.1.

- Rules of the Board of Medical Licensure – Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing Medication, Rule 1.9 Requirement for Dispensing Physicians; Amendment of existing rules regarding physicians who wish to dispense medications from their practice. The amendment will remove existing requirements and create new requirements for physicians who wish to dispense medications. *Approved as amended to change the effective date in paragraph three to conform to the effective date required by statute upon filing with the Secretary of State's Office and to change 'their' in the last paragraph to 'his or her'.*
- Rules of the Board of Medical Licensure – Part 2635 Chapter 5: Practice of Telemedicine, Rule 5.1; Rule 5.1 is being modified to clarify the rules regarding the use of telemedicine.
- Rules of the Board of Medical Licensure – Part 2635 Chapter 5: Practice of Telemedicine, Rule 5.7; Rule 5.7 is being modified to clarify the rules regarding the use of telemedicine in the consultation process with mid-level providers in a hospital setting.
- Rules of the Board of Medical Licensure – Part 2635 Chapter 5: Practice of Telemedicine, Rule 5.9; New rule to establish practice requirements for physicians who wish to dispense medications via technology/automated systems via telemedicine. *Approved as amended to change 'their' to 'his or her' in the second to last paragraph.*
- Rules of the Board on Law Enforcement Officer Standards and Training – Title 31: Public Safety; Part 301: Chapter 7, Basic Curriculum; Chapter 9, Equivalency Training; Add additional training on Human Trafficking per H.B. 571 in Chapter 7; Clarify

Refresher Training requirements for academies in Chapter 9. *Approved as amended to add the words 'before process can be completed' to the end of Part 301, Rule 9.2 F. 4 .*

- Rules of the Board of Pharmacy - Title 30 Part 3001 Article XXVII Nuclear/Radiologic Pharmacy; This amendment brings the Board regulation into compliance with USP 825 standards.
- Rules of the Board of Pharmacy - Title 30 Part 3001 Article XXXVIII Medical Equipment Suppliers Permit; This amendment reorganizes the regulation and brings the Board regulation into compliance with state statute.