

Mississippi Secretary of State
125 South Congress St., P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

Table with 3 columns: AGENCY NAME, CONTACT PERSON, TELEPHONE NUMBER, ADDRESS, CITY, STATE, ZIP, EMAIL, SUBMIT DATE, Name or number of rule(s).

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List all rules repealed, amended, or suspended by the proposed rule: None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

Table with 3 columns: TEMPORARY RULES, PROPOSED ACTION ON RULES, FINAL ACTION ON RULES. Includes checkboxes for original filing, renewal, action proposed (new rule, amendment, repeal, adoption by reference), and final action (adopted with/without changes, reference, withdrawal, repeal).

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

Signature of person authorized to file rules: [Handwritten signature]

Table with 3 columns: OFFICIAL FILING STAMP. Middle stamp contains 'FILED JUL 30 2019 MISSISSIPPI SECRETARY OF STATE' and handwritten number '#24294'.

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.

Any automated dispensaries under the control of, and whose medications are ordered and supplied by, a Mississippi licensed pharmacist would not necessitate physician oversight into the dispensary process. In this sense, physicians are encouraged to utilize a pharmacist for control over the dispensary process, and to not order medications by using the physician's information – which would otherwise invoke the requirements of Part 2640, Rule 1.9. Further, and recognizing that Physician Assistants (PA) may not dispense, no PAs may utilize such a device unless the stock is maintained and ordered by a licensed pharmacist.

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 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.