

**BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 20, 2017**

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, July 20, 2017, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

THE FOLLOWING MEMBERS WERE PRESENT:

Charles D. Miles, M.D., President
Claude D. Brunson, Vice President
J. Ann Rea, M.D., M.D., Secretary
S. Randall Easterling, M.D., Vicksburg
C. Kenneth Lippincott, M.D., Tupelo
Michelle Y. Owens, M.D., Jackson
Virginia M. Crawford, M.D

ALSO PRESENT:

Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Special Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Leslie Ross, Investigations Supervisor
Jonathan Dalton, Staff Officer, Investigative Division
Frances Carrillo, Staff Officer, Investigative Division
Maj Gen (Ret) Erik Hearon, Consumer Health Committee

NOT PRESENT:

William S. Mayo, D.O., Oxford
David W. McClendon, Jr., M.D., Ocean Springs
Charles Thomas, Yazoo City, Consumer Health Committee
Wesley Breland, Hattiesburg, Consumer Health Committee

The meeting was called to order at 9:00 a.m. by Dr. Miles, President. The invocation was given by Dr. Owens and the pledge was led by Dr. Crawford. Dr. Miles extended a welcome to all visitors present at the meeting.

Dr. Miles opened the floor for public comments but there were none.

Approval of certifications to other entities

327 licenses were certified to other entities.

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Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve.

Approval of licenses issued

173 licenses were issued.

Motion was made by Dr. Brunson, seconded by Dr. Owens, and carried unanimously to approve.

Approval of PA protocols

22 PA protocols were approved

Following a brief discussion and several questions changes were noted.

Motion was made by Dr. Easterling, seconded by Dr. Owens, and carried unanimously to accept.

Budget

Alice Gorman reported and answered questions regarding the Budget for fiscal year ending June 30, 2019

Investigative Report for May 1, 2017- June 30, 2017

Ms. Ross reported:

Number of complaints received: 42

Number of cases closed: 49

Total number of open cases: 221

Number of complaints sent to licensee for response: 16

Number of FSMB reports re licensees: 0

Number of NPDB reports re licensees: 6

Recidivism appearances (counted as a previous EC visit and/ or appearance before the Board): 1

-licensees w/ 2 appearances: 0

-licensees w/ 3 appearances: 0

-licensees w/ 4 appearances: 1

Number of disciplinary actions taken by the Board: 0

Dr. Miles appointed three Board members, Dr. Owens, Dr. Lippincott, and Dr. Owens to assist the staff in reviewing and responding to complaints.

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Interstate Medical Licensure Compact Update

Dr. Brunson reported no significant changes of the Interstate Medical Licensure Compact since the last Board meeting. Rhonda Freeman reported on the status of being able to perform background checks of applicants utilizing the FBI for a Mississippi principal state of licensure compact licenses. Approval from the FBI is pending.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED MAY 17, 2017, AND MINUTES OF THE BOARD MEETING DATED MAY 18, 2017

Upon review of the minutes of the Executive Committee Meeting dated May 17, 2017, and minutes of the board meeting dated May 18, 2017, Dr. Brunson moved for approval of the minutes as submitted. Dr. Owens seconded the motion and it carried unanimously.

REPORT OF JULY 19, 2017, EXECUTIVE COMMITTEE MEETING

Dr. Rea briefly discussed the issues/appearances that were discussed by the Executive Committee on July 19, 2017. Information pertaining to the Executive Committee's decisions/recommendations is included in the Executive Committee Minutes dated July 19, 2017.

Motion was made by Dr. Crawford, seconded by Dr. Owens, with Dr. Brunson and Dr. Easterling recusing for the decision regarding Lucius Lampton and carried unanimously to ratify the decisions/recommendations of the Executive Committee.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Easterling (Chair), Dr. Brunson, Dr. Miles, Dr. Rea, Dr. Owens, Mr. Thomas

Dr. Easterling advised there was no new information to report.

Dr. Easterling briefly discussed an update regarding the Governor's Opioid and Heroin Task Force that he, Dr. Brunson and Dr. Hambleton are serving on a subcommittee on this task force. Recommendations regarding prescribing of controlled substances will be submitted for regulation to the regulatory agencies licensing professionals with prescriptive authority.

Professionals Health Program - Dr. Crawford (Chair), Dr. Lippincott, Dr. McClendon, Dr. Rea

Dr. Crawford advised there was no new information to report.

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Rules, Regulation & Legislative - Dr. Mayo (Chair), Dr. Easterling, Dr. Miles, Dr. McClendon, Dr. Owens, Mr. Breland

Dr. Easterling advised there was no new information to report.

Telemedicine I Interstate Licensure Compact - Dr. Brunson (Chair), Dr. Crawford, Dr. Hall, Ms. Freeman, Maj Gen (Retired) Hearon

Dr. Brunson advised there have been notification from three different groups of telemedicine programs. Douglas Tucker, M.D., had presented at the last Board meeting regarding developing the Telehealth Partners in providing pain management medicine. Dr. Brunson has provided copies of Dr. Tucker's program plan for the Board's review. Dr. Brunson advised Dr. Tucker's program is in compliance with the Board's regulation.

The Telehealth programs on the coast in Ocean Springs, Dr. Demotropolis and in North Mississippi Medical Center, Lee Greer. Brief discussion regarding the launching of Telemedicine groups throughout the state. All programs incorporate audio / visual platforms.

Licensee Education and Communication - Dr. Easterling (Chair), Dr. Brunson, Dr. Crawford, Dr. Rea, Ms. Freeman

Dr. Easterling briefly discussed Licensees not renewing license before the expiration date. There was a brief discussion regarding reminders to Licensees to inform and remind of license renewal. Arlene Davis and Rhonda Freeman advised that notices are sent on April 30th to inform when renewal begins. A warning notice will be issued on June 15th reminding Licensees of the June 30th expiration date and another warning will be issued on July 15th informing licensee that the license had expired on June 30th.

A motion was made by Dr. Miles, seconded by Dr. Brunson, and carried to go into Executive Session to discuss personnel matters.

Physician Assistant Advisory Task Force - Dr. Crawford (Chair), Robert Phil pot, Jr., PhD, PA-C Tristen Harris, PA-C Lauren English, Phyllis Johnson, Board of Nursing, Ms. Freeman, PA-C Leah Calder, PA-C Gavin Nowell

Dr. Crawford advised there was no new information to report.

OTHER BUSINESS

Dr. Miles reported receiving letters asking questions regarding Physician Assistants to which he issued the answers that a PA cannot dispense and a PA cannot do anything they are not trained to do.

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Dr. Miles introduced Stefanie Thomas, DPM, President of the Mississippi Podiatric Association. There was a brief discussion regarding the appointments of the Podiatric Advisory Committee and its function.

Dr. Miles asked Stan Ingram to discuss Consent Orders. Mr. Ingram advised the ways the Board can take action against a Licensee. A Consent Order is considered proposed by the Licensee to the Board. Mr. Ingram explained that the Consent Order is not valid until it is signed by the Board and the Licensee.

CONSUMER HEALTH MEMBERS

Dr. Miles discussed briefly the appointment and function of the Consumer Health Members, who serve without compensation. Dr. Miles explained that the Board is reviewing this matter for the next meeting for possible changes.

Dr. Miles recognized and presented a ten year pin to Harry Gunter, Investigator for the Board for having worked for the Board of Medical Licensure had worked for almost twenty years and is receiving this recognition belatedly because he had been serving overseas for the Army National Guard.

FINAL ADOPTION:

1. Part 2635 Practice of Medicine filed March 20, 2017

Motion was made by Dr. Rea, seconded by Dr. Brunson to adopt Part 2635 Practice of Medicine Rule and carried unanimously to final adopt regulation.

2. Part 2625 Acupuncturist filed June 7, 2017

Motion was made by Dr. Brunson, seconded by Dr. Crawford to adopt Part 2625 Acupuncturist Rule and carried unanimously to final adopt regulation.

**APPROVAL OF EXAMINING COMMITTEE FINAL REPORT FOR BOARD REVIEW
AND APPROVAL PURSUANT TO MISS. CODE §73-25-61**

Motion was made by Dr. Brunson, seconded by Dr. Crawford to approve the Examining Committee's Final Report.

BOARD OF MEDICAL LICENSURE RETREAT

Dr. Miles reported the planning of a Retreat for the Board members and staff for the education and understanding of the function and duties of the Board. A day will be scheduled for a date in October at Eagle Ridge.

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Dr. Miles reported before the Board considers the next Executive Director the Board has requested a review team from the Federation of State Medical Boards (FSMB) to perform an organizational assessment. Dr. Brunson advised that he and Dr. Easterling had met with Lisa Robin Chief, FSMB Advocacy Officer to do a two day assessment of the Board to be performed in August. After the evaluation the Review Team will provide recommendations to the Board to consider.

PERSONAL APPEARANCE JOHN D. FAGAN, M.D., DISCUSS PHYSICIAN ASSISTANT PROTOCOL FOR CARRIE EURE, PA-C

Dr. Miles advised that Dr. Fagan has provided the Board with an amended protocol for Ms. Eure which was approved and it was not necessary for an appearance by Dr. Fagan or Carrie Eure.

PROPOSED CONSENT ORDER FOR APPROVAL

Carl Reddix, M.D.

Mr. Ingram summarized the events where Dr. Reddix entered into a plea agreement with the U.S. Attorney's Office on May 3, 2017, which was accepted. Sentencing is set for August 1, 2017. As a result of pleading guilty of being found guilty Dr. Reddix is in violation of Miss Code Ann Section 73-25-29(6).

As a result of this order which Licensee has signed and is presenting to the Board for consideration for his license to be indefinitely suspended. Licensee understands he cannot petition the Board for reinstatement if his criminal conviction is subject to any probation or parole conditions.

A motion was made by Dr. Owens, seconded by Dr. Brunson, and carried to accept and approve the Consent Order.

THE BOARD RECESSED AT 10:28 A.M. AND RETURNED AT 11:15 A.M.

HEARING IN THE CASE OF MYRON CORNEL STOKES, SR., M.D., COLLIERVILLE, TN, MISSISSIPPI MEDICAL LICENSE 21733

Mr. Ingram introduced Dr. Stokes and his attorney, Doug Mercier. Mr. Ingram advised that on January 6, 2016, the Board entered an Order of Prohibition prohibiting Licensee from practicing medicine as a result of loss of advocacy with the Mississippi Professional Health Program (MPHP). Licensee is requesting reinstatement of his medical license or lifting the Order of Prohibition.

Mr. Ingram advised that this hearing to determine if the Licensee can practice medicine with reasonable skill and safety. Mr. Doug Mercier addressed the Board and

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advised the Board that Licensee is seeking a restricted license based on the Pace Clinical Assessment and with the advocacy of the MPHP as set forth in the monitoring agreement.

Mr. Ingram entered several exhibits into the record.

Mr. Ingram briefly summarized the licensure history of Dr. Stokes.

Mr. Mercier provided the Board with an opening statement.

Dr. Stokes was called to the witness stand and sworn in by the court reporter. In response to questions from Mr. Mercier, Dr. Stokes provided his personal background and education. Mr. Mercier questioned Dr. Stokes regarding the issues for which he was being monitored by the Mississippi Professionals Health Program prior to the issuance of the Order of Prohibition dated January 9, 2016. Mr. Mercier further questioned him regarding his Clinical assessment and treatment that was recommended by the Mississippi Professionals Health Program to obtain advocacy. Dr. Stokes answered questions by the Board members and Mr. Ingram. Mr. Mercier questioned Dr. Stokes and asked him to address the Board regarding his request for future restricted practice.

Dr. Scott Hambleton, Medical Director of the Mississippi Professionals Health Program, was called to the witness stand and sworn in by the court reporter. In response to questions from Mr. Mercier, Dr. Hambleton provided the documentation of Dr. Stokes' compliance of the recommended evaluation and clinical assessments. Dr. Hambleton further testified that the Committee of the Mississippi Professionals Health Program agreed to offer advocacy for Dr. Stokes to return to a restricted practice as recommended by the PACE clinical assessment report.

A motion was made by Dr. Rea, seconded by Dr. Crawford and carried that the Executive Committee enter into Executive Session to discuss a matter that could result in adverse action.

Upon a motion by Dr. Owen, seconded by Dr. Miles and carried the Executive Committee came out of Executive Session at which time Dr. Miles asked Dr. Rea to report on its decision. Dr. Rea advised that the Board approves to reinstate the medical license, limited to office practice and minor surgical procedures and endoscopy.

A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Alisha Johnson, Aspire Reporting.

THE BOARD RECESSED FOR LUNCH AT 12:30 P.M. AND RETURNED AT 1:15 P.M.

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**HEARING IN THE CASE OF THOMAS E. STURDAVANT, M.D., BILOXI, MS,
MISSISSIPPI MEDICAL LICENSE 16798**

Ms. Cassandra Walter introduced herself from the Attorney General's office and serving as the complaint counsel in this matter. Before proceeding with the merits of the hearing regarding Dr. Sturdavant, Ms. Walter advised that there were preliminary matters to be taken by the Board. The first preliminary matter was that Dr. Sturdavant through his counsel Bill Whitfield, III, submitted a proposed consent order for Board's consideration. Ms. Walter presented the second preliminary matter of Dr. Sturdavant's a motion through his counsel to compel discovery and a motion for additional discovery

Mr. Whitfield addressed the Board regarding the proposed Consent Order that had been provided and not accepted by the Board's Executive Director. The Board agreed to review and consider the proposed consent order by counsel.

The Board recessed at 1:22 P.M. to allow time for Mr. Whitfield to confer with Dr. Sturdavant and for the Board to review and consider the proposed consent order. The Board returned at 2:01 P.M. The Board declined to accept the proposed consent order.

Mr. Whitfield submits his motion to compel discovery and a motion for additional discovery to the Board. Ms. Walter responded to the motion and explained this in an administrative body pursuant to the Laws of Mississippi the formal rules of discovery are not held to the same standard as the judicial tribunal. Compliance to due process has been met in that each exhibit has been provided to Mr. Whitfield. Ms. Walter explained that no evidence will be introduced that had not been provided to counsel. The Board denied the motion to compel discovery and the motion for additional discovery.

Dr. Sturdavant was called to the witness stand and sworn in by the court reporter.

Mr. Whitfield objected to having both the complaint counsel and advisor to the board from the Attorney General's Office. Ellen O'Neal attorney serving as an advisor with the Attorney General's office responded and explained it is usual and customary for the Attorney General's office to provide state agencies an attorney for legal counsel and serve as hearing officer. The objection was duly noted and over ruled by the Board.

In response to questions from Ms. Walter, Dr. Sturdavant answered questions regarding his licensure history as it related to prior board action of his Mississippi medical license for violations of the rules and regulations. Ms. Walters introduced exhibits as she questioned Dr. Sturdavant.

Mr. Whitfield objected to an exhibit report as hearsay. Ms. Walter withdrew the exhibit to introduce through another witness.

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Mr. Whitfield objected to introducing prior action or history of Dr. Sturdavant's record. The Board noted and overruled Mr. Whitfield's objection.

Mr. Whitfield objected to introducing an exhibit without authentication of the original document. The Board overruled the objection and allowed the document into evidence.

In response to questions from Ms. Walter, Dr. Sturdavant answered questions regarding the documents that are being introduced into evidence. Mr. Whitfield further questioned Dr. Sturdavant regarding the documents submitted as evidence in relation to treating patients for weight lost in violation of his letter agreement with the Board not to treat patients for weight loss dated November 14, 2013. Dr. Sturdavant answered questions by the Board.

THE BOARD RECESSED AT 4:14 P.M. AND RETURNED AT 4:45 P.M.

Dr. Sturdavant continued to answer questions by Mr. Whitfield and the Board.

Jonathan Dalton, Investigator for the Board was called to the witness stand and sworn in by the court reporter. Mr. Dalton was questioned by Ms. Walters as well as Board members concerning his investigation of Dr. Sturdavant and his failure to comply with the Letter of agreement with the Board dated November 14, 2013. Ms. Walter introduced a document as an exhibit to which Mr. Whitfield objected determining the document as hearsay. Mr. Whitfield also objected to the authentication of the document.

Ms. O'Neal determined that the document was not relevant to the case and Ms. Walter withdrew the document as evidence.

Mr. James Welch introduced himself as the second counsel for Dr. Sturdavant questioned Mr. Dalton related to his investigation. Mr. Dalton answered questions by the Board.

THE BOARD RECESSED AT 6:12 P.M. AND RETURNED AT 6:22 P.M.

A motion was made by Dr. Brunson, seconded by Dr. Owen and carried that the Executive Committee enter into Executive Session to discuss a matter that could result in adverse action.

Upon a motion by Dr. Brunson, seconded by Dr. Crawford and carried the Executive Committee came out of Executive Session at which time Dr. Miles asked Dr. Rea to report on its decision. Dr. Rea advised that the Board agrees to withdraw the summons and complaint without prejudice for lack of clear and convincing evidence. Dr. Sturdavant remains under the existing letter of agreement dated November 13, 2014, with the Board.

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A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Alisha Johnson, Aspire Reporting.

ADJOURNMENT

The next two meetings are scheduled for Wednesday, September 20, 2017 and for Thursday, September 21, 2017.

A brief discussion regarding the Board's Retreat at Eagle Ridge Conference Center tentatively scheduled for October 14, 2017.

There being no further business, the meeting adjourned at 6:36 p.m.



**Charles D. Miles, MD
President**

**Minutes taken and transcribed
By Frances Carrillo
Staff Officer
July 20, 2017**

Attn: Executive Committee of the Mississippi State Board of Medical Licensure

The following is submitted to the Executive Committee of the Mississippi State Board of Medical Licensure as a request to examine and comment on the telemedicine services and collaborative relationships of TeleHealth Partners.

Overview

The goal of TeleHealth Partners (THP) is to optimize care of patients established within an existing medical practice (the client practice). One function of THP is to provide telemedicine follow up visits for a client practice within the terms of a care agreement. The care agreement will be established between the client practice and THP prior to any THP patient encounter. Under the THP model, the client practice will evaluate the patient, establish a diagnosis, and prescribe a treatment plan. After establishing an appropriate plan, THP will monitor and optimize the plan utilizing telemedicine technology within the scope of the care agreement. The care agreement will outline the responsibilities, expectations, and methods of care to be facilitated by THP. Suspicion of new diagnoses, unexpected progression of established diagnoses, or alteration of the treatment plan beyond the scope of the care agreement will prompt referral of the patient to the client practice for in-person visit.

Compliance with Administrative Code

Care has been taken in the design of the THP model to comply with the Mississippi State Board of Medical Licensure Administrative Code, both in the structure of telemedicine services and collaborative relationships with nurse practitioners.

Part 2635 Chapter 5: Practice of Telemedicine:

In reference to *Rule 5.1 Definitions*:

- Physicians utilized by THP to care for patients in Mississippi will be licensed in the state of Mississippi.
- Telemedicine services will be provided by electronic communication with the physician in one location and a patient in another location.
 - THP will provide telemedicine services through real-time, audio-visual interaction often without the use of an intervening health care provider.

In compliance with *Rule 5.2 Licensure*:

- Care provided by THP to patients residing in Mississippi is understood to occur in the state of Mississippi.
- THP physicians caring for patients in Mississippi will have both:
 - Mississippi State Medical License, and
 - A client physician licensed in the State of Mississippi requesting a care partnership.

In compliance with *Rule 5.3 Informed Consent*:

- Prior to THP treatment of patients through telemedicine:
 - Informed consent will be obtained from the patient at the client practice site with clear articulation of the risks and benefits of treatment via a telemedicine network including how to receive follow-up care or assistance in the event of an adverse reaction to treatment or if there is a telemedicine equipment failure.
 - With the established relationship of a client practice, all non-emergent follow-up will take place at the client practice.

In compliance with *Rule 5.4 Physician Patient Relationship*:

- A. The initial physician patient relationship will be established in-person with a client practice.
 - Initial examination and diagnosis will be made during initial, in-person visit.
 - Rigorous authentication protocols will be implemented prior to telemedicine evaluation by THP to confirm identity of the patient.
- B. Follow up examination provided by THP will comply with standard of care guidelines.
- C. New diagnoses will not be made by THP through telemedicine. Initial diagnosis will be made in-person with all available diagnostic modalities. If follow-up care reveals suspicion of new diagnosis or unexpected advancing condition, the patient will be referred back to client practice for in-person evaluation.
- D. Risks and benefits of treatment will be reviewed during THP telemedicine visits, but treatment for new conditions will not be implemented as new diagnoses are not made by THP. THP will modify treatment plans for diagnoses made by client practices within the scope of treatment that is agreed upon by THP and client practice.
- E. In-person follow-up care, if necessary, would be provided by the client practice. Telemedicine follow-up care would be provided by THP.
- F. A complete medical record of pertinent client practice information as well as all THP encounters will be maintained by THP within the THP platform. Client practices and patients will have access to the THP medical records, with aggregated reports of THP encounters made available to client practices prior to in-person visits.

In compliance with *Rule 5.5 Examination*:

- THP will not use telemedicine to make any new diagnosis. Previously diagnosed conditions will be monitored and previously prescribed treatment plans will be administered by THP. All necessary information will be available to a THP provider during a telemedicine encounter to ensure adherence to standard of care.

In compliance with *Rule 5.6 Medical Records*:

- A complete medical record of pertinent client practice information as well as all THP encounters will be maintained by THP within the THP platform. Client practices and patients will have access to the THP medical records, with aggregated reports of THP encounters made available to client practices prior to in-person visits.

In compliance with *Rule 5.7 Collaborative/Consultative Physician Limited*:

- TeleHealth Partners will not practice telemergency medicine.

In compliance with *Rule 5.8 Reporting Requirements*:

- TeleHealth Partners will not operate telemergency programs.

Collaboration with Nurse Practitioners

TeleHealth Partners will facilitate follow up care through collaborative relationships with nurse practitioners (NPs) utilizing telemedicine. NPs will be located in a primary office that is shared with the collaborative physician. The primary office will be a remote location relative to the client practice and the patient. The NP will provide the previously described telemedicine services from the primary office location.

Part 2630 Chapter 1: Collaboration with Nurse Practitioners:

In reference to *Rule 1.1 Scope*:

- THP will utilize physicians licensed to practice medicine in the state of Mississippi, and will therefore fall under the scope of *Rule 1.1*.

In reference to *Rule 1.2 Definitions*:

- A. THP physicians caring for patients within the state of Mississippi will be licensed to practice medicine in the state of Mississippi.
- B. Free Standing Clinics will not be utilized by TeleHealth Partners without strict adherence to conditions outlined in *Rule 1.3*.
- C. Primary telemedicine service will be provided from a Primary Office that is shared by the nurse practitioner and the collaborative physician.
- D. THP will employ both the collaborative physician and NP.
- E. NPs employed by THP to care of patients in the state of Mississippi will be licensed to practice nursing in the state of Mississippi and certified by the Mississippi Board of Nursing to practice in an expanded role as a nurse practitioner.

In compliance with *Rule 1.3 Board Review*:

- Free standing clinics will not be broadly utilized by TeleHealth Partners. Prior to collaborating with NPs, THP physicians will first:
 - a. Appear personally or by telephone before the Mississippi State Board of Medical Licensure and the Board of Nursing if the Board of Medical Licensure determines that the collaborative/consultative relationship may not be approved absent action from the Joint Committee,
 - b. Present and discuss the collaborative protocol between THP physician and NP, and
 - c. Obtain approval from the Board to act as a collaborating/consulting physician.

- THP collaborative/consultative relationships will include and implement a formal quality improvement program maintained within the THP platform which will be available to inspection by the representative of the Mississippi State Board of Medical Licensure. The quality assurance/quality improvement program will consist of:
 - Review by collaborative physician of a random sample of 10% or 20 charts, whichever is less, of patients seen by the nurse practitioner every month. Patients that the nurse practitioner and collaborating physician have consulted on during the month will count as one chart review.
 - THP will assist the NP in maintaining a log of charts reviewed which includes the identifier for the patient's charts, reviewers' names, and dates of review.
 - Each NP will meet face to face with a collaborating physician once per quarter for the purpose of quality assurance. This meeting will be documented.

In compliance with *Rule 1.4 Collaborative/Consultative Relationships*:

- Backup physician coverage will be ensured by THP in the event the primary collaborating physician is unavailable.
- The backup collaborating physician(s) will be listed on the APRN protocol submitted by THP.

Executive Session
Mississippi Board of Medical Licensure
July 20, 2017

AGENDA ITEM: Consent Order for Dr. Carl Reddix, M.D., License No. 12068, Jackson, MS

In a motion made by Crawford, seconded by Brunson, and carried, the Board accepts
Dr.Reddix's Consent Order.

VOTE:	FOR:	AGAINST:	ABSTAIN:	ABSENT:
Claude D. Brunson, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, M.D.				X
W. David McClendon, M.D.				X
Charles D. Miles, M.D.	X			
Michelle Y. Owens, M.D.	X			
J. Ann Rea, M.D.	X			



Charles Miles, M.D., President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

CARL MACHELL REDDIX, M.D.

CONSENT ORDER

WHEREAS, Carl Machell Reddix, M.D., hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License No. 12068, issued May 16, 1989, and said license is current until June 30, 2018;

WHEREAS, on July 13, 2016, a grand jury indictment was entered against Licensee in Criminal Case No. 3:16-cr-00050-DPJ-FKB before the United States District Court for the Southern District of Mississippi, Northern Division styled *United States of America v. Carl Reddix*; said indictment setting forth seven (7) counts, one of which was contempt and conspiracy in violation of 18 USC §1349 with the remaining six (6) counts (2-7) charging that Licensee did knowingly and corruptly give, offer and agree to give cash to Christopher B. Epps with intent to influence and reward Epps in connection with the business, transaction and series of transactions of the Mississippi Department of Corrections (bribery), all in violation of 18 UDC §666(a)(2);

WHEREAS, following the aforementioned grand jury indictment, Licensee was arrested and charged with all seven (7) counts. On May 3, 2017, Licensee entered into a Plea Agreement with the United States Attorney's Office for the Southern District of Mississippi, Criminal Division, wherein Licensee agreed to plead guilty to Count 7 of the indictment;

WHEREAS, on May 3, 2017, the United States District Court accepted Licensee's plea of guilty to County 7 and found him guilty as charged. Sentencing was set for August 1, 2017;

WHEREAS, the above conduct constitutes a violation of the Mississippi Medical Practice Act, specifically, Section 73-25-29(6), Section 73-25-29(8)(d) and Section 73-25-83(a), Miss. Code (1972) Ann., for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

WHEREAS, it is the desire of Licensee to avoid an evidentiary hearing before the Board and, in lieu thereof, has agreed to enter into this Consent Order subject to the terms, conditions and restrictions as specified below;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby indefinitely suspend Licensee's certificate (No. 12068) to practice medicine in the State of Mississippi.

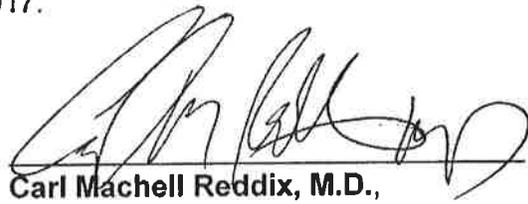
IT IS FURTHER ORDERED that Licensee shall have the right pursuant to Miss. Code Ann. §73-25-32 to petition the Board for reinstatement of his license after a period of not less than one (1) year has lapsed from the date of the suspension. Licensee shall comply with all prerequisites as set forth in §73-25-32 and in the event the Board grants such a request, the Board may impose, in its sole and absolute discretion, any further restrictions and/or conditions which the Board deems necessary to protect the public and insure compliance with all statutes, rules and regulations governing the practice of medicine.

IT IS FURTHER ORDERED that Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., § 73-25-30, said amount not to exceed \$10,000. Licensee shall be advised of the total assessment by separate written notification, and shall tender to the Board a certified check or money order made payable to the Mississippi State Board of Medical Licensure, on or before forty (40) days from the date the assessment is mailed to Licensee via U.S. Mail to Licensee's current mailing address.

Licensee understands and expressly acknowledges that this Consent Order, when approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the State of Mississippi. Licensee further acknowledges that the Board shall provide a copy of this Order to, among others, the U.S. Drug Enforcement Administration, and the Board makes no representation as to action, if any, which the U.S. Drug Enforcement Administration may take in response to this Order.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. § 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, **Carl Machell Reddix, M.D.**, nevertheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby indefinitely suspending his license to practice medicine in the State of Mississippi, subject to those terms and conditions listed above.

Executed, this the 19th day of July, 2017.



Carl Machell Reddix, M.D.,

ACCEPTED AND APPROVED, this the 20th day of July, 2017, by the
Mississippi State Board of Medical Licensure.



Charles D. Miles, M.D., President

Executive Session
Mississippi Board of Medical Licensure
July 20, 2017

AGENDA ITEM: Executive Session to review information for the approval of Part 2635 Practice of Medicine, Filed March 20, 2017

In a motion by Dr. Rea, seconded by Dr. Brunson, and carried, the Board accepts the Final adoption of Part 2635 Practice of Medicine.

VOTE:	FOR:	AGAINST:	ABSTAIN:	ABSENT:
Claude D. Brunson, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, M.D.				X
W. David McClendon, M.D.				X
Charles D. Miles, M.D.	X			
Michelle Y. Owens, M.D.	X			
J. Ann Rea, M.D.	X			



Charles Miles, M.D., President

Executive Session
Mississippi Board of Medical Licensure
July 20, 2017

AGENDA ITEM: Executive Session to review information for the approval of Part 2625 Acupuncturist, Filed, June 7, 2017

In a motion by Dr. Brunson, seconded by Dr. Crawford, and carried, the Board accepts the Final adoption of Part 2625 Acupuncturist

VOTE:	FOR:	AGAINST:	ABSTAIN:	ABSENT:
Claude D. Brunson, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, M.D.				X
W. David McClendon, M.D.				X
Charles D. Miles, M.D.	X			
Michelle Y. Owens, M.D.	X			
J. Ann Rea, M.D.	X			



Charles Miles, M.D., President

Executive Session
Mississippi Board of Medical Licensure
July 20, 2017

AGENDA ITEM: Hearing in the case of Myron Cornel Stokes, Sr., M.D. License No. 21733

In a motion by Dr. Owens, seconded by Dr. Miles, and carried, the Board approves the reinstated medical license; limited to office practice, minor surgical procedures, and endoscopy

VOTE:	FOR:	AGAINST:	ABSTAIN:	ABSENT:
Claude D. Brunson, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, M.D.				X
W. David McClendon, M.D.				X
Charles D. Miles, M.D.	X			
Michelle Y. Owens, M.D.	X			
J. Ann Rea, M.D.	X			



Charles Miles, M.D., President

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 Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 4/10/17	Name or number of rule(s): Part 2635: Practice of Medicine		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: The rules in this Part have been reviewed and updated to reflect changes in terminology, to clarify certain requirements and to withdraw Chapters 8 and 11 that are no longer necessary. Based upon comments Chapter 8 has been returned to its original form. No changes to Chapter 8 are being made.

Specific legal authority authorizing the promulgation of rule: 73-43-11

List all rules repealed, amended, or suspended by the proposed rule: Part 2635: Practice of Medicine

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.

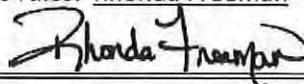
ECONOMIC IMPACT STATEMENT:

- 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
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: <u>01/13/2017</u> Action taken: <input type="checkbox"/> Adopted with no changes in text <input checked="" type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman

Signature of person authorized to file rules: _____



<p>OFFICIAL FILING STAMP</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <p>Accepted for filing by</p>	<p>DO NOT WRITE BELOW THIS LINE</p> <p>OFFICIAL FILING STAMP</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <p>Accepted for filing by</p>	<p>OFFICIAL FILING STAMP</p> <div style="border: 1px solid black; padding: 10px;">  </div> <p>Accepted for filing by #22597 </p>
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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 1 Surgery/Post-Operative Care

Rule 1.1 Scope. The following regulation sets forth the policies of the Mississippi State Board of Medical Licensure regarding post-operative surgical care rendered by individuals licensed to practice medicine, osteopathic medicine and podiatric medicine in the state of Mississippi.

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

Rule 1.2 Definitions. For the purpose of Part 2635, Chapter 1 only, the following terms have the meanings indicated:

- A. “Auxiliary” or “Auxiliaries” shall include, but is not limited to, registered nurses, licensed practical nurses, certified nursing assistants, physical therapists, nurse practitioners and optometrists.
- B. “Under the supervision” means to critically watch, direct, advise and oversee, and to inspect and examine the actions of another health care practitioner.
- C. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- D. “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.

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

Rule 1.3 Informed Consent. The responsibility for medical and surgical diagnoses is that of the licensed physician. In addition, it is the responsibility of the operating physician to explain the procedure and to obtain informed consent of the patient. It is not necessary, however, that the operating physician obtain or witness the signature of a patient on a written form evidencing informed consent.

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

Rule 1.4 Post-Surgical Care. The management of post-surgical care is the responsibility of the operating physician. The operating physician should provide those aspects of post-surgical care which are within the unique competence of the physician. Patients are best served by having post-surgical care conducted by the physician who best knows their condition--the operating physician.

Where the operating physician cannot personally provide post-surgical care, the physician must arrange **before** surgery for post-surgical care to be performed by another qualified physician who is acceptable to the patient. In this case, the operating physician may delegate discretionary post-operative activities to a qualified licensed physician. Like the operating physician, the physician

to whom a patient has been referred for post-surgical care should provide, at a minimum, those aspects of post-surgical care that are not delegable.

Unless otherwise provided by law, delegation of post-surgical activities to an auxiliary is permitted only if the auxiliary is under the supervision of the operating physician or the physician to whom the operating physician has referred a patient for post-surgical care. While an auxiliary may be authorized by law to provide certain aspects of post-surgical care, this does not relieve the operating physician of his or her responsibility to provide post-surgical care or arrange for the delegation of post-surgical care, when appropriate, as required by this rule.

Those aspects of post-surgical care which may be delegated to an auxiliary must be determined on a case-by-case basis, but shall be limited to those procedures which the auxiliary is authorized by law to perform and within the unique competence and training of the auxiliary.

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

Rule 1.5 Effective Date of Rules. The rules pertaining to Surgery/Post-Operative Care shall become effective October 23, 1994. 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 of the Mississippi State Board of Medical Licensure regarding office based surgery rendered by individuals licensed to practice medicine, osteopathic medicine and podiatric medicine 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 surgery” is defined as surgery which 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. 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 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 hospitalization, 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 Surgery. For all surgical procedures, the level of sterilization shall meet current OSHA requirements.

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 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.

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 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 occur within the office based surgical setting. This report shall be made within 15 days after the occurrence of a surgical event. 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 states that the office is a doctor's office regulated pursuant to the rules of the Mississippi State Board of Medical Licensure. This notice must also appear prominently within the required patient informed consent.

Office surgery facilities should adhere to recognized standards such as those promulgated by the American Society of Anesthesiologists' *Guidelines for Office-Based Anesthesia* 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 Surgery.

A. Scope

1. Level I office surgery includes, but 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 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 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 Surgery.
- iv. Chances of complication requiring hospitalization are remote.

2. Standards for Level I Office 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 Basic Life Support Certification.

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 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. 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

Local or peripheral nerve block, including Bier Block, plus intravenous or intramuscular sedation, but with preservation of vital reflexes.

D. Training Required

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. 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.

E. Equipment and Supplies Required

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 Surgery.

A. Scope

1. Level III Office Surgery is that surgery which involves, or might foreseeably require, the use of a general anesthesia or major conduction anesthesia and perioperative sedation. This includes the use of:
 - i. Intravenous sedation beyond that defined for Level II office surgery;
 - ii. General Anesthesia: loss of consciousness and loss of vital reflexes with probable requirement of external support of pulmonary or cardiac functions; or
 - iii. Major Conduction 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 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 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 Required
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 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 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.
 3. Emergency procedures related to serious anesthesia complications should be formulated, periodically reviewed, practiced, updated, and posted in a conspicuous location.
- D. Equipment and Supplies Required
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.

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

Rule 2.7 Effective Date of Rules. The above rules pertaining to office based surgery shall become effective September 1, 2001.

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 3: Laser Devices

Rule 3.1 Laser Devices. The use of laser, pulsed light or similar devices, either for invasive or cosmetic procedures, is considered to be the practice of medicine in the state of Mississippi and therefore such use shall be limited to physicians and those directly supervised by physicians, such that a physician is on the premises and would be directly involved in the treatment if required. These rules shall not apply to any person licensed to practice dentistry if the laser, pulsed light, or similar device is used exclusively for the practice of dentistry.

Adopted March 18, 1999. Amended May 19, 2005. Amended January 18, 2007. Amended March 8, 2007. Amended May 17, 2007. Amended March 27, 2008.

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

Part 2635 Chapter 4: Chelation Therapy

Rule 4.1 Chelation Therapy. The use of EDTA (ethylenediaminetetraacetic acid) outside of FDA approved clinical indications or an approved research protocol (see below) is not permitted. Other off-label uses may be permissible if there is substantial, high-quality research to support such use. The research should be peer-reviewed and published in recognized journals such as

those cited in PubMed or in the National Library of Medicine. Specific reference should be made to the publications and research in the medical record. Informed consent for off-label use should be obtained. Use of EDTA in any other manner may be considered to be violation of Mississippi Code, Section 73-25-29(8)(d).

However, EDTA may be used when a licensee experienced in clinical investigations has applied for and received from the Board written approval for off-label use in a clinical investigation. The licensee applying for approval must be the principal investigator for the protocol or subject to the direction of the principal investigator.

Advertising EDTA's administration for off-label use, except for approved research protocols, is prohibited. Such advertising may be considered to be violation of Mississippi Code, Section 73-25-29(8)(d) and/or the rules promulgated pursuant thereto.

Adopted July 18, 2002. Amended March 16, 2017.

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

Part 2635 Chapter 5: Practice of Telemedicine

Rule 5.1 Definitions. For the purpose of Part 2635, Chapter 5 only, the following terms have the meanings indicated:

- A. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi.
- B. "Telemedicine" is the practice of medicine using electronic communication, information technology or other means between a physician in one location and a patient in another location with or without an intervening health care provider. This definition does not include the practice of medicine through postal or courier services.
- C. "Teleemergency medicine" is a unique combination of telemedicine and the collaborative/consultative role of a physician board certified in emergency medicine, and an appropriate skilled health professional (nurse practitioner or physician assistant).

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.2 Licensure. The practice of medicine is deemed to occur in the location of the patient. Therefore only physicians holding a valid Mississippi license are allowed to practice telemedicine in Mississippi. The interpretation of clinical laboratory studies as well as pathology and histopathology studies performed by physicians without Mississippi licensure is not the practice of telemedicine provided a Mississippi licensed physician is responsible for accepting, rejecting, or modifying the interpretation. The Mississippi licensed physician must maintain exclusive control over any subsequent therapy or additional diagnostics.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.3 Informed Consent. The physician using telemedicine should obtain the patient's informed consent before providing care via telemedicine technology. In addition to information relative to treatment, the patient should be informed of the risk and benefits of being treated via a

telemedicine network including how to receive follow-up care or assistance in the event of an adverse reaction to treatment or if there is a telemedicine equipment failure.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.4 Physician Patient Relationship. In order to practice telemedicine a valid “physician patient relationship” must be established. The elements of this valid relationship are:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. conducting an appropriate history and physical examination of the patient that meets the applicable standard of care;
- C. establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;
- E. insuring the availability of appropriate follow-up care; and
- F. maintaining a complete medical record available to patient and other treating health care providers.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.5 Examination. Physicians using telemedicine technologies to provide medical care to patients located in Mississippi must provide an appropriate examination prior to diagnosis and treatment of the patient. However, this exam need not be in person if the technology is sufficient to provide the same information to the physician as if the exam had been performed face to face.

Other exams may be appropriate if a licensed health care provider is on site with the patient and is able to provide various physical findings that the physician needs to complete an adequate assessment. However a simple questionnaire without an appropriate exam is in violation of this policy and may subject the physician to discipline by the Board.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.6 Medical Records. The physician treating a patient through a telemedicine network must maintain a complete record of the patient’s care. The physician must maintain the record’s confidentiality and disclose the record to the patient consistent with state and federal laws. If the patient has a primary treating physician and a telemedicine physician for the same medical condition, then the primary physician’s medical record and the telemedicine physician’s record constitute one complete patient record.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.7 Collaborative/Consultative Physician Limited. No physician practicing telemergency medicine shall be authorized to function in a collaborative/consultative role as outlined in Part 2630, Chapter 1 unless his or her practice location is a Level One Hospital Trauma Center that is able to provide continuous twenty-four hour coverage and has an existing air ambulance system in place. Coverage will be authorized only for those emergency departments of licensed hospitals who have an average daily census of thirty (30) or fewer acute care/medical surgical occupied beds as defined by their Medicare Cost Report.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.8 Reporting Requirements. Annual reports detailing quality assurance activities, adverse or sentinel events shall be submitted for review to the Mississippi State Board of Medical Licensure by all institutions and/or hospitals operating telemergency programs.

Amended October 15, 2003. Amended November 4, 2004. Amended January 30, 2006. Amended May 20, 2010. Amended March 16, 2017.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Part 2635 Chapter 6: Electrodiagnostic Testing

Rule 6.1 General. Electrodiagnostic testing includes two primary categories: needle electromyography testing and nerve conduction testing.

The purpose of both categories of electrodiagnostic testing is to detect abnormalities of the peripheral neuromuscular system or to determine the extent and degree of recovery of neuromuscular abnormalities.

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

Rule 6.2 Delegation of Electrodiagnostic Testing Procedures. Electrodiagnostic testing is a clinical diagnostic study that must be considered only in the light of the clinical finding. The person performing electrodiagnostic testing must be able to elicit the pertinent history and perform the necessary examination to define the clinical problems. Differential diagnoses must be considered, and as abnormalities unfold or fail to unfold during the course of testing, the electrodiagnostic testing may be modified until a probable diagnosis is reached.

Electrodiagnostic testing procedures may be delegated to a specifically trained non-physician or physician in a residency or fellowship training program. The responsible electrodiagnostic physician need not be physically present but must be immediately available within the same building throughout the performance of the entire procedure.

Adopted November 20, 2003. Amended March 16, 2017.

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

Part 2635 Chapter 7: Internet Prescribing

Rule 7.1 Internet Prescribing. Essential components of proper prescribing and legitimate medical practice require that the physician obtains a thorough medical history and conducts an appropriate physical and/or mental examination before prescribing any medication.

Prescribing drugs to individuals that the physician has never met and based solely on answers to a set of questions, as is found in Internet or toll-free telephone prescribing fails to meet an acceptable standard of care and could constitute unprofessional conduct subject to disciplinary action.

Adopted September 18, 2003. Amended July 15, 2004. Amended March 16, 2017.

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

Part 2635 Chapter 8: Medical Expert Activities by Physicians

Rule 8.1 Authority and Purpose. The Mississippi State Board of Medical Licensure (hereinafter referred to as “the Board”) adopts these rules governing medical expert activities by physicians pursuant to Chapters 25 and 43 of Title 73 of the Mississippi Code. The Mississippi State Board of Medical Licensure finds it necessary to fulfill its statutory responsibilities by adopting these rules in order to protect the public, to set professional standards, to enforce the provisions of law regarding the performance of medical expert activities by physicians, and to further other legitimate government purposes in the public interest.

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

Rule 8.2 Scope. These rules apply to any physician who performs medical expert activities regarding any person, facility, or entity located within the state of Mississippi, or regarding an event alleged to have occurred within the state of Mississippi, regardless of the location, type, or status of the physician’s medical expert activity, the presence or absence of the physician expert’s license to practice medicine in Mississippi, the physician expert’s presence or absence of a physician-patient relationship in Mississippi, the type of medical expert activity performed (e.g., oral testimony or a written statement), or the setting in which the medical expert activity is performed (e.g., a state or federal court or administrative agency).

No part of these rules is intended to conflict with or supercede the authority of any state or federal court or administrative agency to designate a physician as a medical expert in a legal matter then pending before the court or agency. The Board does not intend for these rules to conflict with or supercede the description or regulation of the function of a physician serving as an “expert” as that term is used in the Mississippi Rules of Evidence or in other provisions of law, rules, or decisions of any court or administrative agency.

No part of these rules is intended to conflict with or supercede the authority of a person other than a physician to serve as an expert in a legal matter. Furthermore, the Board does not intend for these rules to have any effect on physicians’ participation in legal proceedings in a capacity other than as a medical expert.

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

Rule 8.3 Definition of Medical Expert Activities. For the purposes of these rules only, the Mississippi State Board of Medical Licensure has determined that the definition of the term “medical expert activities” includes, but is not limited to, the use of medical knowledge and professional judgment by a physician to:

- A. Suggest or recommend to a person any medical advice or other agency (whether material or not material).
- B. Perform medical services (including, but not limited to, a physical or mental examination of a person).
- C. Conduct a review of a person’s medical record.
- D. Serve as a medical consultant.

- E. Render a medical opinion concerning the diagnosis or treatment of a person.
- F. Produce a written medical expert opinion report, affidavit, or declaration.
- G. Give testimony under oath as a medical expert at a state or federal hearing, deposition, trial, administrative agency proceeding, alternative dispute resolution proceeding, or any other legal proceeding, regarding the medical issues in a legal matter or claim for injuries that is then pending in a court or administrative agency, or which may be filed or asserted whether or not such claim ever results in a pending legal matter and which involves a person, facility, or entity located within the state of Mississippi, or an event alleged to have occurred within the state of Mississippi.

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

Rule 8.4 Licensure and Qualification Requirements. Except as otherwise provided by law, rule or regulation of this state, any medical expert activity by a physician regarding a legal matter pending in a state or federal court or administrative agency in Mississippi must be performed by a physician who holds a current unrestricted medical license in Mississippi, another state or foreign jurisdiction, and who has the qualifications to serve as a medical expert on the issue(s) in question by virtue of knowledge, skill, experience, training, or education. This rule does not supersede the policies and rules of the Board in regards to unreferred diagnostic screening tests.

The practice of any physician not licensed in Mississippi that meets the licensure and qualification requirements stated in the above paragraph shall be deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice, without any need for licensure verification or further requirement for licensure. In accordance with the provisions of law in Mississippi, any physician not licensed in Mississippi whose practice is deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice shall be subject to regulation by the Board regarding the physician's performance of such medical expert activities in the state of Mississippi.

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

Rule 8.5 Professional Standards. Any physician who performs medical expert activities must:

- A. Comply with these rules and all applicable provisions of Mississippi law (e.g., statutes, court rules and decisions, and other administrative agency rules) with regard to the performance of medical expert activities.
- B. Comply with medical ethics principles, including, but not limited to, ethics principles established by the American Medical Association and relevant medical specialty associations.
- C. Be honest in all professional interactions involving his or her medical expert activities.
- D. Not accept payment for medical expert activities that is contingent upon the result or content of any medical diagnosis, opinion, advice, services, report, or review; or that is contingent upon the outcome of any case, claim, or legal matter then pending or contemplated.
- E. Not make or use any false, fraudulent, or forged statement or document.

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

Rule 8.6 Professional Accountability for Violation of Rules. Any physician who performs medical expert activities, whether or not licensed to practice medicine in Mississippi, may be disciplined or otherwise held professionally accountable by the Board, upon a finding by the Board that the physician is unqualified as evidenced by behavior including, but not limited to, incompetent professional practice, unprofessional conduct, or any other dishonorable or unethical conduct likely to deceive, defraud, or harm the public.

Any violation of Part 2635, Rule 8.5 as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 8.7 Complaint Procedure, Investigation, Due Process, and Actions Available to the Board. Any person who has reason to believe that any physician may have failed to comply with any part of these rules in the performance of medical expert activities may make a complaint to the Mississippi State Board of Medical Licensure on a complaint form that is furnished by the Board.

Any physician, whether or not licensed to practice medicine in Mississippi, who performs medical expert activities in the context of a legal matter regarding any person, facility, entity, or event located within the state of Mississippi may be subject to an investigation by the Mississippi State Board of Medical Licensure upon the receipt of a complaint regarding the physician's conduct or practice. Any such physician shall be afforded the due process procedures of the law and Board rules. The Board, in its sole discretion, may refer the complaint to the medical licensure authority of another state, or to any other appropriate legal authority.

Any physician may request, or may be summoned by the Board, to appear before the Board at a hearing to consider the physician's compliance with these rules. Any physician's failure to appear when summoned to a hearing may be deemed by the Board to be a waiver of the physician's due process opportunity to appear before the Board and may result in a finding by the Board that the physician is out of compliance with these rules *in absentia*.

In disciplining a physician licensed to practice medicine in Mississippi or otherwise holding any physician professionally accountable pursuant to these rules and to the statutes, rulings, and other rules and provisions of Mississippi law, the actions that the Mississippi State Board of Medical Licensure may take include, but are not limited to, one or more of the following:

- A. Denying, suspending, restricting, or revoking a Mississippi license to practice medicine.
- B. Administering a public or private reprimand to a Mississippi licensed physician.
- C. Assessing up to \$10,000 of the reasonable investigation costs expended by the Board in investigating a Mississippi licensed physician.
- D. Moving for an injunction in Chancery Court to prohibit any physician's further performance of medical expert activities.
- E. Petitioning the Chancery Court to cite any noncompliant physician for contempt of court.
- F. Referring the matter to another medical licensure authority or other legal authority for action regarding any physician.

- G. Any other action regarding any physician that the Board may deem proper under the circumstances (e.g., issuing an advisory letter of concern; issuing a notice of warning; issuing a cease and desist notice; or adopting a resolution of disapproval of any physician's medical expert activities).

Any physician who is found by the Mississippi State Board of Medical Licensure to have failed to comply with any part of these rules may be reported by the Board to any person or organization appropriate under the circumstances in order to enforce or comply with the law or to protect the public, including, but not limited to, the National Practitioner Data Bank, the U.S. Department of Health and Human Services Office of the Inspector General, the Centers for Medicare and Medicaid Services, the Federation of State Medical Boards, the medical licensure authority or state medical association in any state in which the physician is licensed to practice medicine, the American Board of Medical Specialties and any of its member specialty boards, the Mississippi Attorney General or District Attorney, the United States Attorney, any state or federal court or administrative agency, any national or state professional organization or medical specialty association, and any other appropriate person, government agency, healthcare entity, or legal authority.

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

Rule 8.8 Compliance Policy and Exemptions. In assuring compliance with these rules, the duty shall be on the physician, not on the party who engaged the physician to perform medical expert activities and not on any other person or entity, to ensure that his or her medical expert activities comply with these rules. Any physician who claims to be exempt from these rules shall have the burden of proving to the Board that the exemption is valid.

Amended May 20, 2010.

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

References.

Mississippi Code, Sections 11-1-61, 73-25-27, 73-25-29, 73-25-30, 73-25-33, 73-25-34, 73-25-83, 73-25-87, 73-43-11, 73-51-1, et al

Mississippi Rule of Evidence 702

“Rules, Laws, and Policies of the Mississippi State Board of Medical Licensure.” Published by the Mississippi State Board of Medical Licensure and available at Internet address www.msbml.ms.gov

Hall v. Hilbun, 466 So. 2d 856 (Miss. 1985)

Code of Medical Ethics, Current Opinions with Annotations. Published by the Council on Ethical and Judicial Affairs of the American Medical Association, 2006-07 edition.

“The Role of Licensing Boards in the Evaluation and Discipline of the Expert Witness.” Authored by William J. Wenner, Jr., M.D., J.D. Published in the Journal of Medical Licensure and Discipline, Vol. 90, No. 3, 2004, Pp. 15-20 (collecting cases and scholarly publications)

Findings of Fact adopted by the Mississippi State Board of Medical Licensure on May 18, 2006.**

** COMMENT: Based on information presented to the Board at a public hearing on this matter on March 9, 2006, and on May 18, 2006, and on research and analysis of information obtained by Board members and its staff and attorneys, and also on comments received from numerous sources, including the Board's Consumer Health Committee, leaders of the medical and legal professions, former judges, officials from the Federation of State Medical Boards, and members of the public, the Mississippi State Board of Medical Licensure makes the following Findings of Fact:

1. A physician's professional practice, conducted pursuant to the privilege of possessing a medical license, historically has been subject to regulation by other members of the medical profession, by methods such as peer review, performance evaluation, quality assurance monitoring, and other methods of regulation. However, there is a problem in Mississippi with the lack of regulation of medical expert activities by physicians. This lack of regulation causes the performance of medical expert activities to be vulnerable to fraud, abuse, dishonesty, deception, incompetence, and other forms of unprofessional, dishonorable, and unethical conduct by physician experts, all of which are harmful to the public.
2. A physician's performance of medical expert activities involves a lawful part of a physician's practice that is historically an area of state concern and that the Board has the statutory authority and duty to regulate in order to protect the public.
3. A physician's medical expert activities involve practices that are likely to affect the health, safety, rights, remedies, and general welfare of persons in Mississippi.
4. In keeping with the public policy and provisions of law in Mississippi, the performance of medical expert activities, regardless of the physician expert's location or state(s) of medical licensure, is a lawful practice that requires a qualified physician, and is therefore subject to regulation by, and professional accountability to, the Mississippi State Board of Medical Licensure.
5. Due to its physician membership and statutory authority, the Mississippi State Board of Medical Licensure is uniquely able to establish and enforce licensure requirements, qualification requirements, and Professional Standards related to the performance of medical expert activities by physicians, especially with regard to ethical conduct and competent practice.
6. Regardless of a physician's state(s) of medical licensure, a physician who performs medical expert activities in a legal matter has an ethical duty to practice according to the standards of medical professionalism, to perform all medical expert activities in an honest and competent manner, and to strive to report to appropriate entities any physician who is deficient in character or competence or who engages in fraud or deception.
7. In keeping with the public policy and provisions of law in Mississippi and principles of medical ethics, it is unprofessional, dishonorable, and unethical for a physician to willfully state an opinion or a material fact as a medical expert in the context of a legal matter that the physician knows or should know is false, or that a reasonable person could objectively conclude was a misrepresentation or other distortion of the truth, or was intended by the physician to mislead or deceive a judge, juror, lawyer, litigant, other expert, hearing officer, administrative body, investigator, legal authority, or any finder of fact.
8. In adopting these rules, the Mississippi State Board of Medical Licensure has attempted to tailor these rules as closely as possible to the current provisions of Mississippi law, in order to regulate

Part 2635 Chapter 9 Community-Based Immunization Programs

Rule 9.1 Scope. The administration of vaccinations constitutes the practice of medicine, as defined by Mississippi Code Section 73-43-11, and thus may only be performed by a physician licensed to practice medicine in this state, or by a licensed nurse under the direction and supervision of a licensed physician.

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

Rule 9.2 Position. It is the position of the Mississippi State Board of Medical Licensure that vaccinations administered pursuant to a community-based public immunization program are considered to be under the direction and supervision of a physician, and thus do not constitute the unlawful practice of medicine, when all of the following criteria are met:

- A. the vaccinations are administered to the public by a licensed provider who is:
 1. authorized under Mississippi statute or regulation to provide vaccinations and is
 2. subject to the regulation of a Mississippi regulatory agency.
- B. The vaccinations are carried out pursuant to state and federal public health immunization programs or other programs which:
 1. shall be approved in advance by the Board;
 2. shall be conducted under the general supervision of a physician
 - a. licensed in the state of Mississippi,
 - b. who actively practices medicine at least 20 hours/week, and
 - c. resides in the state of Mississippi; and,
 3. a single physician assumes responsibility for the safe administration of the vaccine.

Adopted March 24, 2011. Amended March 16, 2017.

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

medical expert activities for the legitimate government purpose of protecting the public and to further other legitimate government purposes in the public interest.

9. In adopting these rules, the Mississippi State Board of Medical Licensure states that its intent is only to regulate the conduct and practice of physicians who perform medical expert activities in Mississippi. The Board does not intend for these rules to be subverted or misused by participants in legal proceedings as a procedural weapon to intimidate or harass a physician expert or to delay or otherwise complicate the administration of justice.

The Mississippi State Board of Medical Licensure shall provide a copy of these rules, with these Comments appended, to the Mississippi Supreme Court, the Mississippi Court of Appeals, the respective conferences of the Mississippi Circuit, Chancery, and County Judges, the Administrative Office of the Courts, the Mississippi Attorney General, the United States District Courts and United States attorneys located in Mississippi, the Mississippi Workers' Compensation Commission, the Mississippi Bar Association, the Mississippi State Medical Association, the Federation of State Medical Boards, and any other appropriate person or organization at the discretion of the Board's Executive Director, with the request that those organizations give notice to their members or other interested parties of the existence of these rules.

Part 2635 Chapter 10: Release of Medical Records

Rule 10.1 Definitions. For the purpose of Part 2635, Chapter 10 only, the following terms have the meanings indicated:

- A. “Licensee” means any person licensed to practice medicine, osteopathic medicine, podiatric medicine or acupuncture in the state of Mississippi.
- B. “Medical Records” means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, x-rays, reports of examination and/or evaluation and any hospital admission/discharge records which the licensee may have.
- C. “Patient” means a natural person who receives or should have received health care from a licensed licensee, under a contract, express or implied, whether or not the licensee is compensated for services rendered.
- D. “Legal Representative” means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.
- E. “Authorized Requesting Party” includes patient and legal representative as defined above who holds a valid written release and authorization.

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

Rule 10.2 Medical Records - Property of Licensee. Medical records, as defined herein, are and shall remain the property of the licensee in whose facility said records are maintained, subject to reasonable access to the information by authorized individuals or entities.

In the case of employed or contracted licensees (those lacking authority to manage or maintain medical records, medical record ownership shall be determined by federal and state statute and regulations. Licensees in such relationships shall make reasonable efforts to assure reasonable access to the information by authorized individuals or entities. Further, licensees should inform patients of procedures for release of records if the licensee is not the custodian of the records.

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

Rule 10.3 Transfer of Patient Records to Another Licensee. A licensee shall not refuse for any reason to make the information contained in the medical records available upon valid request by authorized requesting party to another licensee presently treating the patient. The licensee has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the licensee must tender a copy of said documents to the other licensee within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

Rule 10.4 Release of Patient Records to Patient. A licensee shall, upon request of authorized requesting party holding a written release and authorization, provide a copy of a patient's medical record to the authorized requesting party within a reasonable period of time.

In those cases where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the licensee shall not be obligated to release the records directly to the patient, but shall, upon request, release the records to the patient's legal representative. The licensee has a right to request a written authorization prior to release of the records to any party other than the patient. Upon receipt of the written release and authorization, the licensee must tender a copy of the records to the authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

Rule 10.5 Narrative Summary of Medical Record. In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the licensee may provide the narrative summary. The licensee may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

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

Rule 10.6 Duplication and Administrative Fees.

- A. Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code, Section 11-1-52 as follows:
 1. Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to an authorized requesting party for photocopying any patient's records:
 - i. Twenty Dollars (\$20.00) for pages one (1) through twenty (20);
 - ii. One Dollar (\$1.00) per page for the next eighty (80) pages;
 - iii. Fifty Cents (50¢) per page for all pages thereafter.
 - iv. Ten percent (10%) of the total charge may be added for postage and handling.
 - v. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located.
 - vi. In addition, the actual costs of reproducing x-rays or other special records may be included.
 - vii. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.

Source: Miss. Code Ann. §11-1-52 (1972, as amended).

Rule 10.7 Exclusion. Federal or state agencies providing benefit programs as well as contractual third party payers and administrators are excluded from the above stated fees. Records that are requested by state or federal agencies as well as contracted payers and administrators may be billed at rates established by those payers and contracts. The release of records as requested by state or federal agencies or third party payers and administrators may not be refused for failure to pay required fees.

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

Rule 10.8 Violation of Rules. A refusal by a licensee to release patient records shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

Amended March 16, 1995. Amended July 18, 2002. Amended September 18, 2003. Amended September 16, 2004. Amended May 17, 2007. Amended January 21, 2010. Amended March 16, 2017.

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

Part 2635 Chapter 11: Withdrawn March 16, 2017

Part 2635 Chapter 12: Physician Advertising

Rule 12.1 Scope. The following rule on physician advertising applies to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

Rule 12.2 Definitions. For the purpose of Part 2635, Chapter 12 only, the following terms have the meanings indicated:

- A. “Board” means the Mississippi State Board of Medical Licensure.
- B. “Physician” means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- C. “Advertisement” or “Advertising” means any form of public communication, such as office signage, newspaper, magazine, telephone directory, medical directory, radio, television, direct mail, billboard, sign, computer, business card, billing statement, letterhead or any other means by which physicians may communicate with the public or patients.

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

Rule 12.3 Requirements.

- A. Subject to the requirements set forth herein below, any advertisement by a physician may include:
 1. The educational background or specialty of the physician.
 2. The basis on which fees are determined, including charges for specific services.
 3. Available credit or other methods of payment.
 4. Any other non-deceptive information.
- B. A physician may publicize himself or herself as a physician through any form of advertisement, provided the communication, (i) shall not be misleading because of the omission of necessary information, (ii) shall not contain any false or misleading statement, or (iii) shall not otherwise operate to deceive.
- C. Because the public may be deceived by the use of medical terms or illustrations that are difficult to understand, physicians should design the advertisement to communicate the information contained therein to the public in a readily comprehensible manner.
- D. It is unethical to advertise in such a manner as to create unjustified medical expectations by the public. The key issue is whether advertising or publicity is true and not materially misleading.

- E. In addition to the above general requirements, any advertisement or other form of public communication shall comply with the following specific requirements:
1. All advertisements and written communications pursuant to these rules shall include the name of at least one (1) physician responsible for its content. In the case of office signage at least one sign in reasonable proximity to the main entrance must bear the name of the responsible physician.
 2. Whenever a physician is identified in an advertisement or other written communication, the physician should not be identified solely as “Doctor” or “Dr.” but shall be identified as M.D. for medical doctors, D.O. for osteopathic physicians and D.P.M. for podiatric physicians.
 3. A physician who advertises a specific fee for a particular service or procedure shall honor the advertised fee for at least ninety (90) days unless the advertisement specifies a longer period; provided that for advertisements in the yellow pages of a telephone directory or other media not published more frequently than annually, the advertised fee shall be honored for no less than one (1) year following publication.
 4. A physician shall not make statements which are merely self-laudatory or statements describing or characterizing the quality of the physician's services.
 5. No physician shall advertise or otherwise hold himself or herself out to the public as being “Board Certified” without, (i) a complete disclosure in the advertisement of the specialty board by which the physician was certified, and (ii) can submit proof of current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association. The term “Board Certified” frequently appears in conjunction with a list of services that the physician or clinic provides. The general public could easily be misled into thinking that the physician is certified in all of those services.
 6. No physician shall hold himself or herself out as a specialist in a particular field unless that physician has either, (i) completed a residency program recognized by the Accreditation Council for Graduate Medical Education, by the American Osteopathic Association or by the American Podiatric Medical Association and can submit proof that such training was completed, or (ii) can submit proof that the licensee was “grandfathered” into a specialty by board certification by a recognized specialty board of the American Board of Medical Specialties or the American Osteopathic Association.
 7. No physician shall compare his or her service with other physicians' services, unless the comparison can be factually substantiated; this precludes the use of terms such as “the best,” “one of the best,” or “one of the most experienced” or the like.
 8. Where an advertisement includes a consumer-endorser's experience (i.e., patient testimonials), the advertisement must contain clear and prominent disclosure of (a) what the generally expected outcome would be in the depicted circumstances, and (b) the limited applicability of the endorser's experience. Although testimonials and endorsements are authorized under this rule, compliance will be strictly monitored as endorsements and testimonials are inherently misleading to the lay public and to those untrained in medicine.
 9. Any claims of success, efficacy or result (i.e., cure) must have scientific evidence in substantiation of such claims.

10. Any claims that purport to represent “typical” results (results that consumers will generally achieve) must be based on a study of a sample of all patients who entered the program, or, if the claim refers to a subset of those patients, a sample of that subset.
 11. Any claim made regarding the safety of a medical procedure or drug must also disclose the risk of adverse medical complications.
 12. No physician shall claim to have any drug or medication or use of a drug or medication for a specific ailment or condition unless such drug or medication has an F.D.A. approved indication for such purpose.
 13. Any claim that improvements can be achieved through surgery in a specified time period must also include disclosure of the typical recovery time.
- F. Consistent with federal regulatory standards which apply to commercial advertising, a physician who is considering the placement of an advertisement or publicity release, whether in print, radio or television, should determine in advance that the communication or message is explicitly and implicitly truthful and not misleading. These standards require the advertiser to have a reasonable basis for claims before they are used in advertising. The reasonable basis must be established by those facts known to the advertiser, and those which a reasonable, prudent advertiser should have discovered.
- G. The above rules do not prohibit physicians or clinics from authorizing the use of the physician's name or clinic name in medical directories, HMO directories, preferred provider agreements or other communications intended primarily for referral purposes.

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

Rule 12.4 Violation of Rules. The above rules on physician advertising shall not be interpreted to alter or amend that which is otherwise provided by Mississippi statutory law or the rules on advertising adopted by the Federal Trade Commission.

If any physician subject to this rule advertises or enters into any communication in violation of the above rules, such act shall constitute unprofessional conduct, which includes dishonorable or unethical conduct likely to deceive, defraud or harm the public, in violation of Mississippi Code, Sections 73-25-29(8)(d) and 73-27-13(h)(iv).

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

Rule 12.5 Effective Date of Rules. The above rules pertaining to physician advertising shall become effective November 2, 1995. Amended January 24, 2008. Amended March 16, 2017.

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

Part 2635: Chapter 1 Surgery/Post-Operative Care

Rule 1.1 Scope. The following regulation sets forth the policies of the Mississippi State Board of Medical Licensure regarding post-operative surgical care rendered by individuals licensed to practice medicine, osteopathic medicine and podiatric medicine in the state of Mississippi.

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

Rule 1.2 Definitions. For the purpose of Part 2635, Chapter 1 only, the following terms have the meanings indicated:

- A. “Auxiliary” or “Auxiliaries” shall include, but is not limited to, registered nurses, licensed practical nurses, certified nursing assistants, physical therapists, nurse practitioners and optometrists.
- B. “Under the supervision” means to critically watch, direct, advise and oversee, and to inspect and examine the actions of another health care practitioner.
- C. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- D. “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.

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

Rule 1.3 Informed Consent. The responsibility for medical and surgical diagnoses is that of the licensed physician. In addition, it is the responsibility of the operating physician to explain the procedure and to obtain informed consent of the patient. It is not necessary, however, that the operating physician obtain or witness the signature of a patient on a written form evidencing informed consent.

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

Rule 1.4 Post-Surgical Care. The management of post-surgical care is the responsibility of the operating physician. The operating physician should provide those aspects of post-surgical care which are within the unique competence of the physician. Patients are best served by having post-surgical care conducted by the physician who best knows their condition--the operating physician.

Where the operating physician cannot personally provide post-surgical care, the physician must arrange **before** surgery for post-surgical care to be performed by another qualified physician who is acceptable to the patient. In this case, the operating physician may delegate discretionary post-operative activities to a qualified licensed physician. Like the operating physician, the physician

to whom a patient has been referred for post-surgical care should provide, at a minimum, those aspects of post-surgical care that are not delegable.

Unless otherwise provided by law, delegation of post-surgical activities to an auxiliary is permitted only if the auxiliary is under the supervision of the operating physician or the physician to whom the operating physician has referred a patient for post-surgical care. While an auxiliary may be authorized by law to provide certain aspects of post-surgical care, this does not relieve the operating physician of his or her responsibility to provide post-surgical care or arrange for the delegation of post-surgical care, when appropriate, as required by this rule.

Those aspects of post-surgical care which may be delegated to an auxiliary must be determined on a case-by-case basis, but shall be limited to those procedures which the auxiliary is authorized by law to perform and within the unique competence and training of the auxiliary.

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

Rule 1.5 Effective Date of Rules. The rules pertaining to Surgery/Post-Operative Care shall become effective October 23, 1994. 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 of the Mississippi State Board of Medical Licensure regarding office based surgery rendered by individuals licensed to practice medicine, osteopathic medicine and podiatric medicine 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 surgery” is defined as surgery which 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. 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 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 hospitalization, 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 Surgery. For all surgical procedures, the level of sterilization shall meet current OSHA requirements.

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 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.

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 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 occur within the office based surgical setting. This report shall be made within 15 days after the occurrence of a surgical event. 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 states that the office is a doctor's office regulated pursuant to the rules of the Mississippi State Board of Medical Licensure. This notice must also appear prominently within the required patient informed consent.

Office surgery facilities should adhere to recognized standards such as those promulgated by the American Society of Anesthesiologists' *Guidelines for Office-Based Anesthesia* 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 Surgery.

A. Scope

1. Level I office surgery includes, but 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 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 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 Surgery.
 - iv. Chances of complication requiring hospitalization are remote.
2. Standards for Level I Office 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 Basic Life Support Certification.
 - 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 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. 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

Local or peripheral nerve block, including Bier Block, plus intravenous or intramuscular sedation, but with preservation of vital reflexes.

D. Training Required

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. 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.

E. Equipment and Supplies Required

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 Surgery.

A. Scope

1. Level III Office Surgery is that surgery which involves, or might foreseeably require, the use of a general anesthesia or major conduction anesthesia and perioperative sedation. This includes the use of:
 - i. Intravenous sedation beyond that defined for Level II office surgery;
 - ii. General Anesthesia: loss of consciousness and loss of vital reflexes with probable requirement of external support of pulmonary or cardiac functions; or
 - iii. Major Conduction 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 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 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 Required
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 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 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.
 3. Emergency procedures related to serious anesthesia complications should be formulated, periodically reviewed, practiced, updated, and posted in a conspicuous location.
- D. Equipment and Supplies Required
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.

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

Rule 2.7 Effective Date of Rules. The above rules pertaining to office based surgery shall become effective September 1, 2001.

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 3: Laser Devices

Rule 3.1 Laser Devices. The use of laser, pulsed light or similar devices, either for invasive or cosmetic procedures, is considered to be the practice of medicine in the state of Mississippi and therefore such use shall be limited to physicians and those directly supervised by physicians, such that a physician is on the premises and would be directly involved in the treatment if required. These rules shall not apply to any person licensed to practice dentistry if the laser, pulsed light, or similar device is used exclusively for the practice of dentistry.

Adopted March 18, 1999. Amended May 19, 2005. Amended January 18, 2007. Amended March 8, 2007. Amended May 17, 2007. Amended March 27, 2008.

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

Part 2635 Chapter 4: Chelation Therapy

Rule 4.1 Chelation Therapy. The use of EDTA (ethylenediaminetetraacetic acid) outside of FDA approved clinical indications or an approved research protocol (see below) is not permitted. Other off-label uses may be permissible if there is substantial, high-quality research to support such use. The research should be peer-reviewed and published in recognized journals such as

those cited in PubMed or in the National Library of Medicine. Specific reference should be made to the publications and research in the medical record. Informed consent for off-label use should be obtained. Use of EDTA in any other manner may be considered to be violation of Mississippi Code, Section 73-25-29(8)(d).

However, EDTA may be used when a licensee experienced in clinical investigations has applied for and received from the Board written approval for off-label use in a clinical investigation. The licensee applying for approval must be the principal investigator for the protocol or subject to the direction of the principal investigator.

Advertising EDTA's administration for off-label use, except for approved research protocols, is prohibited. Such advertising may be considered to be violation of Mississippi Code, Section 73-25-29(8)(d) and/or the rules promulgated pursuant thereto.

Adopted July 18, 2002. Amended March 16, 2017.

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

Part 2635 Chapter 5: Practice of Telemedicine

Rule 5.1 Definitions. For the purpose of Part 2635, Chapter 5 only, the following terms have the meanings indicated:

- A. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi.
- B. "Telemedicine" is the practice of medicine using electronic communication, information technology or other means between a physician in one location and a patient in another location with or without an intervening health care provider. This definition does not include the practice of medicine through postal or courier services.
- C. "Teleemergency medicine" is a unique combination of telemedicine and the collaborative/consultative role of a physician board certified in emergency medicine, and an appropriate skilled health professional (nurse practitioner or physician assistant).

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.2 Licensure. The practice of medicine is deemed to occur in the location of the patient. Therefore only physicians holding a valid Mississippi license are allowed to practice telemedicine in Mississippi. The interpretation of clinical laboratory studies as well as pathology and histopathology studies performed by physicians without Mississippi licensure is not the practice of telemedicine provided a Mississippi licensed physician is responsible for accepting, rejecting, or modifying the interpretation. The Mississippi licensed physician must maintain exclusive control over any subsequent therapy or additional diagnostics.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.3 Informed Consent. The physician using telemedicine should obtain the patient's informed consent before providing care via telemedicine technology. In addition to information relative to treatment, the patient should be informed of the risk and benefits of being treated via a

telemedicine network including how to receive follow-up care or assistance in the event of an adverse reaction to treatment or if there is a telemedicine equipment failure.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.4 Physician Patient Relationship. In order to practice telemedicine a valid “physician patient relationship” must be established. The elements of this valid relationship are:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. conducting an appropriate history and physical examination of the patient that meets the applicable standard of care;
- C. establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;
- E. insuring the availability of appropriate follow-up care; and
- F. maintaining a complete medical record available to patient and other treating health care providers.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.5 Examination. Physicians using telemedicine technologies to provide medical care to patients located in Mississippi must provide an appropriate examination prior to diagnosis and treatment of the patient. However, this exam need not be in person if the technology is sufficient to provide the same information to the physician as if the exam had been performed face to face.

Other exams may be appropriate if a licensed health care provider is on site with the patient and is able to provide various physical findings that the physician needs to complete an adequate assessment. However a simple questionnaire without an appropriate exam is in violation of this policy and may subject the physician to discipline by the Board.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.6 Medical Records. The physician treating a patient through a telemedicine network must maintain a complete record of the patient’s care. The physician must maintain the record’s confidentiality and disclose the record to the patient consistent with state and federal laws. If the patient has a primary treating physician and a telemedicine physician for the same medical condition, then the primary physician’s medical record and the telemedicine physician’s record constitute one complete patient record.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.7 Collaborative/Consultative Physician Limited. No physician practicing telemergency medicine shall be authorized to function in a collaborative/consultative role as outlined in Part 2630, Chapter 1 unless his or her practice location is a Level One Hospital Trauma Center that is able to provide continuous twenty-four hour coverage and has an existing air ambulance system in place. Coverage will be authorized only for those emergency departments of licensed hospitals who have an average daily census of thirty (30) or fewer acute care/medical surgical occupied beds as defined by their Medicare Cost Report.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Rule 5.8 Reporting Requirements. Annual reports detailing quality assurance activities, adverse or sentinel events shall be submitted for review to the Mississippi State Board of Medical Licensure by all institutions and/or hospitals operating telemergency programs.

Amended October 15, 2003. Amended November 4, 2004. Amended January 30, 2006. Amended May 20, 2010. Amended March 16, 2017.

Source: Miss. Code Ann. §73-25-34 (1972, as amended).

Part 2635 Chapter 6: Electrodiagnostic Testing

Rule 6.1 General. Electrodiagnostic testing includes two primary categories: needle electromyography testing and nerve conduction testing.

The purpose of both categories of electrodiagnostic testing is to detect abnormalities of the peripheral neuromuscular system or to determine the extent and degree of recovery of neuromuscular abnormalities.

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

Rule 6.2 Delegation of Electrodiagnostic Testing Procedures. Electrodiagnostic testing is a clinical diagnostic study that must be considered only in the light of the clinical finding. The person performing electrodiagnostic testing must be able to elicit the pertinent history and perform the necessary examination to define the clinical problems. Differential diagnoses must be considered, and as abnormalities unfold or fail to unfold during the course of testing, the electrodiagnostic testing may be modified until a probable diagnosis is reached.

Electrodiagnostic testing procedures may be delegated to a specifically trained non-physician or physician in a residency or fellowship training program. The responsible electrodiagnostic physician need not be physically present but must be immediately available within the same building throughout the performance of the entire procedure.

Adopted November 20, 2003. Amended March 16, 2017.

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

Part 2635 Chapter 7: Internet Prescribing

Rule 7.1 Internet Prescribing. Essential components of proper prescribing and legitimate medical practice require that the physician obtains a thorough medical history and conducts an appropriate physical and/or mental examination before prescribing any medication.

Prescribing drugs to individuals that the physician has never met and based solely on answers to a set of questions, as is found in Internet or toll-free telephone prescribing fails to meet an acceptable standard of care and could constitute unprofessional conduct subject to disciplinary action.

Adopted September 18, 2003. Amended July 15, 2004. Amended March 16, 2017.

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

Part 2635 Chapter 8: Medical Expert Activities by Physicians

Rule 8.1 Authority and Purpose. The Mississippi State Board of Medical Licensure (hereinafter referred to as “the Board”) adopts these rules governing medical expert activities by physicians pursuant to Chapters 25 and 43 of Title 73 of the Mississippi Code. The Mississippi State Board of Medical Licensure finds it necessary to fulfill its statutory responsibilities by adopting these rules in order to protect the public, to set professional standards, to enforce the provisions of law regarding the performance of medical expert activities by physicians, and to further other legitimate government purposes in the public interest.

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

Rule 8.2 Scope. These rules apply to any physician who performs medical expert activities regarding any person, facility, or entity located within the state of Mississippi, or regarding an event alleged to have occurred within the state of Mississippi, regardless of the location, type, or status of the physician’s medical expert activity, the presence or absence of the physician expert’s license to practice medicine in Mississippi, the physician expert’s presence or absence of a physician-patient relationship in Mississippi, the type of medical expert activity performed (e.g., oral testimony or a written statement), or the setting in which the medical expert activity is performed (e.g., a state or federal court or administrative agency).

No part of these rules is intended to conflict with or supercede the authority of any state or federal court or administrative agency to designate a physician as a medical expert in a legal matter then pending before the court or agency. The Board does not intend for these rules to conflict with or supercede the description or regulation of the function of a physician serving as an “expert” as that term is used in the Mississippi Rules of Evidence or in other provisions of law, rules, or decisions of any court or administrative agency.

No part of these rules is intended to conflict with or supercede the authority of a person other than a physician to serve as an expert in a legal matter. Furthermore, the Board does not intend for these rules to have any effect on physicians’ participation in legal proceedings in a capacity other than as a medical expert.

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

Rule 8.3 Definition of Medical Expert Activities. For the purposes of these rules only, the Mississippi State Board of Medical Licensure has determined that the definition of the term “medical expert activities” includes, but is not limited to, the use of medical knowledge and professional judgment by a physician to:

- A. Suggest or recommend to a person any medical advice or other agency (whether material or not material).
- B. Perform medical services (including, but not limited to, a physical or mental examination of a person).
- C. Conduct a review of a person’s medical record.
- D. Serve as a medical consultant.

- E. Render a medical opinion concerning the diagnosis or treatment of a person.
- F. Produce a written medical expert opinion report, affidavit, or declaration.
- G. Give testimony under oath as a medical expert at a state or federal hearing, deposition, trial, administrative agency proceeding, alternative dispute resolution proceeding, or any other legal proceeding, regarding the medical issues in a legal matter or claim for injuries that is then pending in a court or administrative agency, or which may be filed or asserted whether or not such claim ever results in a pending legal matter and which involves a person, facility, or entity located within the state of Mississippi, or an event alleged to have occurred within the state of Mississippi.

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

Rule 8.4 Licensure and Qualification Requirements. Except as otherwise provided by law, rule or regulation of this state, any medical expert activity by a physician regarding a legal matter pending in a state or federal court or administrative agency in Mississippi must be performed by a physician who holds a current unrestricted medical license in Mississippi, another state or foreign jurisdiction, and who has the qualifications to serve as a medical expert on the issue(s) in question by virtue of knowledge, skill, experience, training, or education. This rule does not supersede the policies and rules of the Board in regards to unreferred diagnostic screening tests.

The practice of any physician not licensed in Mississippi that meets the licensure and qualification requirements stated in the above paragraph shall be deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice, without any need for licensure verification or further requirement for licensure. In accordance with the provisions of law in Mississippi, any physician not licensed in Mississippi whose practice is deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice shall be subject to regulation by the Board regarding the physician's performance of such medical expert activities in the state of Mississippi.

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

Rule 8.5 Professional Standards. Any physician who performs medical expert activities must:

- A. Comply with these rules and all applicable provisions of Mississippi law (e.g., statutes, court rules and decisions, and other administrative agency rules) with regard to the performance of medical expert activities.
- B. Comply with medical ethics principles, including, but not limited to, ethics principles established by the American Medical Association and relevant medical specialty associations.
- C. Be honest in all professional interactions involving his or her medical expert activities.
- D. Not accept payment for medical expert activities that is contingent upon the result or content of any medical diagnosis, opinion, advice, services, report, or review; or that is contingent upon the outcome of any case, claim, or legal matter then pending or contemplated.
- E. Not make or use any false, fraudulent, or forged statement or document.

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

Rule 8.6 Professional Accountability for Violation of Rules. Any physician who performs medical expert activities, whether or not licensed to practice medicine in Mississippi, may be disciplined or otherwise held professionally accountable by the Board, upon a finding by the Board that the physician is unqualified as evidenced by behavior including, but not limited to, incompetent professional practice, unprofessional conduct, or any other dishonorable or unethical conduct likely to deceive, defraud, or harm the public.

Any violation of Part 2635, Rule 8.5 as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 8.7 Complaint Procedure, Investigation, Due Process, and Actions Available to the Board. Any person who has reason to believe that any physician may have failed to comply with any part of these rules in the performance of medical expert activities may make a complaint to the Mississippi State Board of Medical Licensure on a complaint form that is furnished by the Board.

Any physician, whether or not licensed to practice medicine in Mississippi, who performs medical expert activities in the context of a legal matter regarding any person, facility, entity, or event located within the state of Mississippi may be subject to an investigation by the Mississippi State Board of Medical Licensure upon the receipt of a complaint regarding the physician's conduct or practice. Any such physician shall be afforded the due process procedures of the law and Board rules. The Board, in its sole discretion, may refer the complaint to the medical licensure authority of another state, or to any other appropriate legal authority.

Any physician may request, or may be summoned by the Board, to appear before the Board at a hearing to consider the physician's compliance with these rules. Any physician's failure to appear when summoned to a hearing may be deemed by the Board to be a waiver of the physician's due process opportunity to appear before the Board and may result in a finding by the Board that the physician is out of compliance with these rules *in absentia*.

In disciplining a physician licensed to practice medicine in Mississippi or otherwise holding any physician professionally accountable pursuant to these rules and to the statutes, rulings, and other rules and provisions of Mississippi law, the actions that the Mississippi State Board of Medical Licensure may take include, but are not limited to, one or more of the following:

- A. Denying, suspending, restricting, or revoking a Mississippi license to practice medicine.
- B. Administering a public or private reprimand to a Mississippi licensed physician.
- C. Assessing up to \$10,000 of the reasonable investigation costs expended by the Board in investigating a Mississippi licensed physician.
- D. Moving for an injunction in Chancery Court to prohibit any physician's further performance of medical expert activities.
- E. Petitioning the Chancery Court to cite any noncompliant physician for contempt of court.
- F. Referring the matter to another medical licensure authority or other legal authority for action regarding any physician.

- G. Any other action regarding any physician that the Board may deem proper under the circumstances (e.g., issuing an advisory letter of concern; issuing a notice of warning; issuing a cease and desist notice; or adopting a resolution of disapproval of any physician's medical expert activities).

Any physician who is found by the Mississippi State Board of Medical Licensure to have failed to comply with any part of these rules may be reported by the Board to any person or organization appropriate under the circumstances in order to enforce or comply with the law or to protect the public, including, but not limited to, the National Practitioner Data Bank, the U.S. Department of Health and Human Services Office of the Inspector General, the Centers for Medicare and Medicaid Services, the Federation of State Medical Boards, the medical licensure authority or state medical association in any state in which the physician is licensed to practice medicine, the American Board of Medical Specialties and any of its member specialty boards, the Mississippi Attorney General or District Attorney, the United States Attorney, any state or federal court or administrative agency, any national or state professional organization or medical specialty association, and any other appropriate person, government agency, healthcare entity, or legal authority.

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

Rule 8.8 Compliance Policy and Exemptions. In assuring compliance with these rules, the duty shall be on the physician, not on the party who engaged the physician to perform medical expert activities and not on any other person or entity, to ensure that his or her medical expert activities comply with these rules. Any physician who claims to be exempt from these rules shall have the burden of proving to the Board that the exemption is valid.

Amended May 20, 2010.

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

References.

Mississippi Code, Sections 11-1-61, 73-25-27, 73-25-29, 73-25-30, 73-25-33, 73-25-34, 73-25-83, 73-25-87, 73-43-11, 73-51-1, et al

Mississippi Rule of Evidence 702

“Rules, Laws, and Policies of the Mississippi State Board of Medical Licensure.” Published by the Mississippi State Board of Medical Licensure and available at Internet address www.msbml.ms.gov

Hall v. Hilbun, 466 So. 2d 856 (Miss. 1985)

Code of Medical Ethics, Current Opinions with Annotations. Published by the Council on Ethical and Judicial Affairs of the American Medical Association, 2006-07 edition.

“The Role of Licensing Boards in the Evaluation and Discipline of the Expert Witness.” Authored by William J. Wenner, Jr., M.D., J.D. Published in the Journal of Medical Licensure and Discipline, Vol. 90, No. 3, 2004, Pp. 15-20 (collecting cases and scholarly publications)

Findings of Fact adopted by the Mississippi State Board of Medical Licensure on May 18, 2006.**

** COMMENT: Based on information presented to the Board at a public hearing on this matter on March 9, 2006, and on May 18, 2006, and on research and analysis of information obtained by Board members and its staff and attorneys, and also on comments received from numerous sources, including the Board's Consumer Health Committee, leaders of the medical and legal professions, former judges, officials from the Federation of State Medical Boards, and members of the public, the Mississippi State Board of Medical Licensure makes the following Findings of Fact:

1. A physician's professional practice, conducted pursuant to the privilege of possessing a medical license, historically has been subject to regulation by other members of the medical profession, by methods such as peer review, performance evaluation, quality assurance monitoring, and other methods of regulation. However, there is a problem in Mississippi with the lack of regulation of medical expert activities by physicians. This lack of regulation causes the performance of medical expert activities to be vulnerable to fraud, abuse, dishonesty, deception, incompetence, and other forms of unprofessional, dishonorable, and unethical conduct by physician experts, all of which are harmful to the public.
2. A physician's performance of medical expert activities involves a lawful part of a physician's practice that is historically an area of state concern and that the Board has the statutory authority and duty to regulate in order to protect the public.
3. A physician's medical expert activities involve practices that are likely to affect the health, safety, rights, remedies, and general welfare of persons in Mississippi.
4. In keeping with the public policy and provisions of law in Mississippi, the performance of medical expert activities, regardless of the physician expert's location or state(s) of medical licensure, is a lawful practice that requires a qualified physician, and is therefore subject to regulation by, and professional accountability to, the Mississippi State Board of Medical Licensure.
5. Due to its physician membership and statutory authority, the Mississippi State Board of Medical Licensure is uniquely able to establish and enforce licensure requirements, qualification requirements, and Professional Standards related to the performance of medical expert activities by physicians, especially with regard to ethical conduct and competent practice.
6. Regardless of a physician's state(s) of medical licensure, a physician who performs medical expert activities in a legal matter has an ethical duty to practice according to the standards of medical professionalism, to perform all medical expert activities in an honest and competent manner, and to strive to report to appropriate entities any physician who is deficient in character or competence or who engages in fraud or deception.
7. In keeping with the public policy and provisions of law in Mississippi and principles of medical ethics, it is unprofessional, dishonorable, and unethical for a physician to willfully state an opinion or a material fact as a medical expert in the context of a legal matter that the physician knows or should know is false, or that a reasonable person could objectively conclude was a misrepresentation or other distortion of the truth, or was intended by the physician to mislead or deceive a judge, juror, lawyer, litigant, other expert, hearing officer, administrative body, investigator, legal authority, or any finder of fact.
8. In adopting these rules, the Mississippi State Board of Medical Licensure has attempted to tailor these rules as closely as possible to the current provisions of Mississippi law, in order to regulate

Part 2635 Chapter 9 Community-Based Immunization Programs

Rule 9.1 Scope. The administration of vaccinations constitutes the practice of medicine, as defined by Mississippi Code Section 73-43-11, and thus may only be performed by a physician licensed to practice medicine in this state, or by a licensed nurse under the direction and supervision of a licensed physician.

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

Rule 9.2 Position. It is the position of the Mississippi State Board of Medical Licensure that vaccinations administered pursuant to a community-based public immunization program are considered to be under the direction and supervision of a physician, and thus do not constitute the unlawful practice of medicine, when all of the following criteria are met:

- A. the vaccinations are administered to the public by a licensed provider who is:
 1. authorized under Mississippi statute or regulation to provide vaccinations and is
 2. subject to the regulation of a Mississippi regulatory agency.
- B. The vaccinations are carried out pursuant to state and federal public health immunization programs or other programs which:
 1. shall be approved in advance by the Board;
 2. shall be conducted under the general supervision of a physician
 - a. licensed in the state of Mississippi,
 - b. who actively practices medicine at least 20 hours/week, and
 - c. resides in the state of Mississippi; and,
 3. a single physician assumes responsibility for the safe administration of the vaccine.

Adopted March 24, 2011. Amended March 16, 2017.

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

medical expert activities for the legitimate government purpose of protecting the public and to further other legitimate government purposes in the public interest.

9. In adopting these rules, the Mississippi State Board of Medical Licensure states that its intent is only to regulate the conduct and practice of physicians who perform medical expert activities in Mississippi. The Board does not intend for these rules to be subverted or misused by participants in legal proceedings as a procedural weapon to intimidate or harass a physician expert or to delay or otherwise complicate the administration of justice.

The Mississippi State Board of Medical Licensure shall provide a copy of these rules, with these Comments appended, to the Mississippi Supreme Court, the Mississippi Court of Appeals, the respective conferences of the Mississippi Circuit, Chancery, and County Judges, the Administrative Office of the Courts, the Mississippi Attorney General, the United States District Courts and United States attorneys located in Mississippi, the Mississippi Workers' Compensation Commission, the Mississippi Bar Association, the Mississippi State Medical Association, the Federation of State Medical Boards, and any other appropriate person or organization at the discretion of the Board's Executive Director, with the request that those organizations give notice to their members or other interested parties of the existence of these rules.

Part 2635 Chapter 10: Release of Medical Records

Rule 10.1 Definitions. For the purpose of Part 2635, Chapter 10 only, the following terms have the meanings indicated:

- A. “Licensee” means any person licensed to practice medicine, osteopathic medicine, podiatric medicine or acupuncture in the state of Mississippi.
- B. “Medical Records” means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, x-rays, reports of examination and/or evaluation and any hospital admission/discharge records which the licensee may have.
- C. “Patient” means a natural person who receives or should have received health care from a licensed licensee, under a contract, express or implied, whether or not the licensee is compensated for services rendered.
- D. “Legal Representative” means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.
- E. “Authorized Requesting Party” includes patient and legal representative as defined above who holds a valid written release and authorization.

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

Rule 10.2 Medical Records - Property of Licensee. Medical records, as defined herein, are and shall remain the property of the licensee in whose facility said records are maintained, subject to reasonable access to the information by authorized individuals or entities.

In the case of employed or contracted licensees (those lacking authority to manage or maintain medical records, medical record ownership shall be determined by federal and state statute and regulations. Licensees in such relationships shall make reasonable efforts to assure reasonable access to the information by authorized individuals or entities. Further, licensees should inform patients of procedures for release of records if the licensee is not the custodian of the records.

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

Rule 10.3 Transfer of Patient Records to Another Licensee. A licensee shall not refuse for any reason to make the information contained in the medical records available upon valid request by authorized requesting party to another licensee presently treating the patient. The licensee has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the licensee must tender a copy of said documents to the other licensee within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

Rule 10.4 Release of Patient Records to Patient. A licensee shall, upon request of authorized requesting party holding a written release and authorization, provide a copy of a patient's medical record to the authorized requesting party within a reasonable period of time.

In those cases where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the licensee shall not be obligated to release the records directly to the patient, but shall, upon request, release the records to the patient's legal representative. The licensee has a right to request a written authorization prior to release of the records to any party other than the patient. Upon receipt of the written release and authorization, the licensee must tender a copy of the records to the authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the licensee is entitled to reasonable compensation paid in advance for any copy expenses as provided in Part 2635, Rule 10.6.

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

Rule 10.5 Narrative Summary of Medical Record. In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the licensee may provide the narrative summary. The licensee may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

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

Rule 10.6 Duplication and Administrative Fees.

- A. Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code, Section 11-1-52 as follows:
1. Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to an authorized requesting party for photocopying any patient's records:
 - i. Twenty Dollars (\$20.00) for pages one (1) through twenty (20);
 - ii. One Dollar (\$1.00) per page for the next eighty (80) pages;
 - iii. Fifty Cents (50¢) per page for all pages thereafter.
 - iv. Ten percent (10%) of the total charge may be added for postage and handling.
 - v. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located.
 - vi. In addition, the actual costs of reproducing x-rays or other special records may be included.
 - vii. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.

Source: Miss. Code Ann. §11-1-52 (1972, as amended).

Rule 10.7 Exclusion. Federal or state agencies providing benefit programs as well as contractual third party payers and administrators are excluded from the above stated fees. Records that are requested by state or federal agencies as well as contracted payers and administrators may be billed at rates established by those payers and contracts. The release of records as requested by state or federal agencies or third party payers and administrators may not be refused for failure to pay required fees.

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

Rule 10.8 Violation of Rules. A refusal by a licensee to release patient records shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

Amended March 16, 1995. Amended July 18, 2002. Amended September 18, 2003. Amended September 16, 2004. Amended May 17, 2007. Amended January 21, 2010. Amended March 16, 2017.

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

Part 2635 Chapter 11: Withdrawn March 16, 2017

Part 2635 Chapter 12: Physician Advertising

Rule 12.1 Scope. The following rule on physician advertising applies to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

Rule 12.2 Definitions. For the purpose of Part 2635, Chapter 12 only, the following terms have the meanings indicated:

- A. “Board” means the Mississippi State Board of Medical Licensure.
- B. “Physician” means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- C. “Advertisement” or “Advertising” means any form of public communication, such as office signage, newspaper, magazine, telephone directory, medical directory, radio, television, direct mail, billboard, sign, computer, business card, billing statement, letterhead or any other means by which physicians may communicate with the public or patients.

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

Rule 12.3 Requirements.

- A. Subject to the requirements set forth herein below, any advertisement by a physician may include:
 1. The educational background or specialty of the physician.
 2. The basis on which fees are determined, including charges for specific services.
 3. Available credit or other methods of payment.
 4. Any other non-deceptive information.
- B. A physician may publicize himself or herself as a physician through any form of advertisement, provided the communication, (i) shall not be misleading because of the omission of necessary information, (ii) shall not contain any false or misleading statement, or (iii) shall not otherwise operate to deceive.
- C. Because the public may be deceived by the use of medical terms or illustrations that are difficult to understand, physicians should design the advertisement to communicate the information contained therein to the public in a readily comprehensible manner.
- D. It is unethical to advertise in such a manner as to create unjustified medical expectations by the public. The key issue is whether advertising or publicity is true and not materially misleading.

- E. In addition to the above general requirements, any advertisement or other form of public communication shall comply with the following specific requirements:
1. All advertisements and written communications pursuant to these rules shall include the name of at least one (1) physician responsible for its content. In the case of office signage at least one sign in reasonable proximity to the main entrance must bear the name of the responsible physician.
 2. Whenever a physician is identified in an advertisement or other written communication, the physician should not be identified solely as “Doctor” or “Dr.” but shall be identified as M.D. for medical doctors, D.O. for osteopathic physicians and D.P.M. for podiatric physicians.
 3. A physician who advertises a specific fee for a particular service or procedure shall honor the advertised fee for at least ninety (90) days unless the advertisement specifies a longer period; provided that for advertisements in the yellow pages of a telephone directory or other media not published more frequently than annually, the advertised fee shall be honored for no less than one (1) year following publication.
 4. A physician shall not make statements which are merely self-laudatory or statements describing or characterizing the quality of the physician's services.
 5. No physician shall advertise or otherwise hold himself or herself out to the public as being “Board Certified” without, (i) a complete disclosure in the advertisement of the specialty board by which the physician was certified, and (ii) can submit proof of current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association. The term “Board Certified” frequently appears in conjunction with a list of services that the physician or clinic provides. The general public could easily be misled into thinking that the physician is certified in all of those services.
 6. No physician shall hold himself or herself out as a specialist in a particular field unless that physician has either, (i) completed a residency program recognized by the Accreditation Council for Graduate Medical Education, by the American Osteopathic Association or by the American Podiatric Medical Association and can submit proof that such training was completed, or (ii) can submit proof that the licensee was “grandfathered” into a specialty by board certification by a recognized specialty board of the American Board of Medical Specialties or the American Osteopathic Association.
 7. No physician shall compare his or her service with other physicians' services, unless the comparison can be factually substantiated; this precludes the use of terms such as “the best,” “one of the best,” or “one of the most experienced” or the like.
 8. Where an advertisement includes a consumer-endorser's experience (i.e., patient testimonials), the advertisement must contain clear and prominent disclosure of (a) what the generally expected outcome would be in the depicted circumstances, and (b) the limited applicability of the endorser's experience. Although testimonials and endorsements are authorized under this rule, compliance will be strictly monitored as endorsements and testimonials are inherently misleading to the lay public and to those untrained in medicine.
 9. Any claims of success, efficacy or result (i.e., cure) must have scientific evidence in substantiation of such claims.

10. Any claims that purport to represent “typical” results (results that consumers will generally achieve) must be based on a study of a sample of all patients who entered the program, or, if the claim refers to a subset of those patients, a sample of that subset.
 11. Any claim made regarding the safety of a medical procedure or drug must also disclose the risk of adverse medical complications.
 12. No physician shall claim to have any drug or medication or use of a drug or medication for a specific ailment or condition unless such drug or medication has an F.D.A. approved indication for such purpose.
 13. Any claim that improvements can be achieved through surgery in a specified time period must also include disclosure of the typical recovery time.
- F. Consistent with federal regulatory standards which apply to commercial advertising, a physician who is considering the placement of an advertisement or publicity release, whether in print, radio or television, should determine in advance that the communication or message is explicitly and implicitly truthful and not misleading. These standards require the advertiser to have a reasonable basis for claims before they are used in advertising. The reasonable basis must be established by those facts known to the advertiser, and those which a reasonable, prudent advertiser should have discovered.
- G. The above rules do not prohibit physicians or clinics from authorizing the use of the physician's name or clinic name in medical directories, HMO directories, preferred provider agreements or other communications intended primarily for referral purposes.

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

Rule 12.4 Violation of Rules. The above rules on physician advertising shall not be interpreted to alter or amend that which is otherwise provided by Mississippi statutory law or the rules on advertising adopted by the Federal Trade Commission.

If any physician subject to this rule advertises or enters into any communication in violation of the above rules, such act shall constitute unprofessional conduct, which includes dishonorable or unethical conduct likely to deceive, defraud or harm the public, in violation of Mississippi Code, Sections 73-25-29(8)(d) and 73-27-13(h)(iv).

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

Rule 12.5 Effective Date of Rules. The above rules pertaining to physician advertising shall become effective November 2, 1995. Amended January 24, 2008. Amended March 16, 2017.

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

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 Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 6/7/17	Name or number of rule(s): Part 2625: Acupuncturist		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: The rules in this Part have been updated to reflect current legislative changes.

Specific legal authority authorizing the promulgation of rule: 73-71-13

List all rules repealed, amended, or suspended by the proposed rule: Part 2625: Acupuncturist

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.

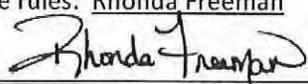
ECONOMIC IMPACT STATEMENT:

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

Printed name and Title of person authorized to file rules: Rhonda Freeman

Signature of person authorized to file rules: _____



OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by <i>22780 AF</i>	Accepted for filing by

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

Part 2625: Chapter 1 The Practice of Acupuncture

Rule 1.1 Scope. The following rules pertain to acupuncture practitioners performing the technique of acupuncture. Except as otherwise provided below, the practitioner may perform acupuncture on a patient only if the patient was evaluated by a physician, as appropriate, for the condition being treated within six (6) months before the date that acupuncture is performed. The Board with advice from the Mississippi Council of Advisors in Acupuncture, may by rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph.

The practitioner must obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time. The form must contain a clear statement that the patient should be evaluated by a physician for the condition being treated by the practitioner.

A practitioner may, without an evaluation from a physician, perform acupuncture on a patient for:

- A. smoking addiction;
- B. weight loss; or
- C. substance abuse, to the extent permitted by the Board, with advice from the Mississippi Council of Advisors in Acupuncture.

While treating a patient, the practitioner shall not make a medical diagnosis, but may provide pattern differentiation according to Traditional Chinese Medicine. If a patient's condition is not improving or a patient requires emergency medical treatment, the practitioner shall consult promptly with a physician.

Acupuncture may be performed in the state of Mississippi by a physician licensed to practice medicine and adequately trained in the art and science of acupuncture. Adequately trained will be defined as a minimum of 200 hours of AMA or AOA approved Category I CME in the field of acupuncture. Such licensed individuals wishing to utilize acupuncture in their practice may do so provided that any and all portions of the acupuncture treatment are performed by the person so licensed and no surrogate is authorized in this state to serve in his or her stead. The practice of acupuncture by a physician should follow the same quality of standard that the physician, or any other physician in his or her community, would render in delivering any other medical treatment. The applicable standard of care shall include all elements of a doctor-patient relationship. The elements of this valid relationship are:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. conduct an appropriate examination of the patient that meets the applicable standard of care and is sufficient to justify the differential diagnosis and proposed therapies;
- C. establish a differential diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discuss with the patient the diagnosis, risks and benefits of various treatment options and obtain informed consent;

- E. insure the availability of appropriate follow-up care including use of traditional medicine; and
- F. maintain a complete medical record.

The Board of Medical Licensure must have on file copies of required CME prior to any Mississippi licensed physician being approved to provide treatment by acupuncture. Licensees approved by the Mississippi State Board of Medical Licensure to practice acupuncture prior to January 2011 shall not be required to meet the aforementioned CME requirements.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.2 Definitions. For the purpose of Part 2625, Chapter 1 only, the following terms have the meanings indicated:

- A. “Board” means the Mississippi State Board of Medical Licensure.
- B. “Council” means the Mississippi Council of Advisors in Acupuncture.
- C. “NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.
- D. “ACAOM” means the Accreditation Commission of Acupuncture and Oriental Medicine.
- E. “CCAOM” means the Council of Colleges of Acupuncture and Oriental Medicine.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.3 Qualifications for Licensure. On or after July 1, 2009, applicants for acupuncture licensure must meet the following requirements:

- A. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
- B. Satisfy the Board that he or she is a citizen or permanent resident of the United States of America.
- C. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
- D. Pay the appropriate fee as determined by the Board.
- E. Present a certified copy of birth certificate or valid and current passport.
- F. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
- G. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.
- H. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.
- I. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.

- J. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
 - 1. If taken before June 1, 2004, pass the Comprehensive Written Exam (CWE), the Clean Needle Technique portion (CNTP), and the Practical Examination of Point Location Skills (PEPLS).
 - 2. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
 - 3. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
- K. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
 - 1. Passage of the NCCAOM examination taken in English.
 - 2. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
 - 3. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.
 - 4. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.
- L. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.
- M. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.
- N. Provide proof of malpractice insurance with a minimum of \$1 million dollars in coverage.
- O. Submit fingerprints for state and national criminal history background checks.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.4 Practice Standards. Before treatment of a patient, the acupuncturist (if not a Mississippi licensed physician) shall be sure that the patient has been evaluated by a licensed physician for the condition to be treated within the last six (6) months. The Board, with advice from the Mississippi Council of Advisors in Acupuncture, may be rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph and shall review the diagnosis for which the patient is receiving treatment.

The acupuncturist shall obtain informed consent from the patient after advising them of potential risks and benefits of acupuncture treatment plan.

The acupuncturist shall obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time.

The acupuncturist shall obtain a detailed medical history that would identify contraindications to acupuncture such as a bleeding disorder.

An acupuncture practitioner will use sterilized equipment that has been sterilized according to standards of the Centers for Disease Control and Prevention (CDC).

An acupuncturist shall comply with all applicable state and municipal requirements regarding public health.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.5 Patient Records. A licensed acupuncturist shall maintain a complete and accurate record of each patient. The record shall be sufficient to demonstrate a valid acupuncturist-patient relationship:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time;
- C. conduct and appropriate examination of the patient that meets the applicable standard of care and is sufficient to justify the differential diagnosis and proposed therapies;
- D. establish a differential diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- E. discuss with the patient the diagnosis, risks and benefits of various treatment options and obtain informed consent;
- F. insure the availability of appropriate follow-up care including use of traditional medicine; and
- G. maintain a complete medical record.

Patient records must be maintained for a period of seven (7) years from the date of last treatment or longer if required by future statute or regulation.

At patient's request, the acupuncturist shall provide the patient or other authorized person a copy of the acupuncture record. Refer to Administrative Code Part 2635 Chapter 10, Release of Medical Records.

Acupuncturists are subject to a peer review process conducted by the Council.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.6 Before treating a patient, the acupuncturist shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment and shall obtain the informed consent of the patient.

On initially meeting a patient in person, the acupuncturist shall provide in writing the acupuncturist's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.

While treating a patient, the acupuncturist shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the acupuncturist shall consult promptly with a physician.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.7 Duty to Notify Board of Change of Address. Any acupuncturist who is licensed to practice as an acupuncturist in this state and changes their practice location or mailing address shall immediately notify the Board in writing of the change. Failure to notify within 30 days could result in disciplinary action.

The Board routinely sends information to licensed acupuncturists. Whether it be by U.S. Mail or electronically, it is important that this information is received by the licensee. The licensure record of the licensee should include a physical practice location, mailing address, email address and telephone number where the Board can correspond with the licensee directly. The Board discourages the use of office personnel's mailing and email addresses as well as telephone numbers. Failure to provide the Board with direct contact information could result in disciplinary action.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.8 Continuing Education.

- A. Every acupuncturist must earn or receive not less than thirty (30) hours of acupuncture related continuing education courses as precedent to renewing their license for the next fiscal year. This thirty (30) hours is per two-year cycle. Excess hours may not be carried over to another two-year cycle. *For the purpose of this regulation, the two-year period begins July 1, 2010, and every two years thereafter.* Continuing education courses must be sponsored and/or approved by one of the following organizations:
1. Mississippi Council of Advisors in Acupuncture
 2. Mississippi Oriental Medicine Association
 3. American Society of Acupuncturists
 4. National Certification Commission for Acupuncture and Oriental Medicine
 5. American Acupuncture Council
 6. American Board of Oriental Reproductive Medicine
- B. All persons licensed as acupuncturists must comply with the following continuing education rules as a prerequisite to license renewal.
1. Acupuncturists receiving their initial license to perform acupuncture in Mississippi after June 30 are exempt from the minimum continuing education requirement for the two-year period following their receiving a license. The thirty (30) hour continuing education certification will be due within the next two-year cycle.
 2. The approved hours of any individual course or activity will not be counted more than once in a two (2) year period toward the required hour total regardless of the number of times the course or activity is attended or completed by any individual.
 3. The Board may waive or otherwise modify the requirements of this rule in cases where there is illness, military service, disability or other undue hardship that prevents a license holder from obtaining the requisite number of continuing education hours. Requests for waivers or modification must be sent in writing to the Executive Director prior to the expiration of the renewal period in which the continuing education is due.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.9 Violations. Any acupuncturist who falsely attests to completion of the required continuing education may be subject to disciplinary action pursuant to Mississippi Code, Section 73-71-33 and 73-71-35.

Any acupuncturist that fails to obtain the required continuing education may be subject to disciplinary action pursuant to Mississippi Code, Section 73-71-33 and 73-71-35, and may not be allowed to renew license. If continuing education deficiencies are discovered during an audit of the licensee, the licensee shall be suspended from practice for the longer of (i) a period of 3 months or (ii) until deficiencies are remedied. Any licensee suspended as a result of a continuing education audit may request a hearing for the purpose of appealing the suspension. Suspension as a result of falsified certification of continuing education shall begin upon determination of the false certification and shall not require notice or hearing as described below.

Continuing education obtained as a result of compliance with the terms of the Board Orders in any disciplinary action shall not be credited toward the continuing education required to be obtained in any two (2) year period.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.10 Renewal Schedule. The license of every person licensed to practice as an acupuncturist in the state of Mississippi shall be renewed annually.

On or before May 1 of every year, the State Board of Medical Licensure shall notify every acupuncturist to whom a license was issued or renewed during the current licensing period of the forthcoming annual renewal of license. The notice shall provide instructions for obtaining and submitting applications for renewal. The applicant shall obtain and complete the application and submit it to the Board in the manner prescribed by the Board in the notice before June 30 with the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all acupuncturists over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a license of renewal for the ensuing one (1) year period, beginning July 1 and expiring June 30 of the succeeding licensure period.

An acupuncturist practicing in Mississippi who allows a license to lapse by failing to renew the license as provided in the foregoing paragraph may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year. If the license has not been renewed within ninety (90) days after its expiration, the renewal shall be assessed a late fee of \$200.

Any acupuncturist who allows a license to lapse shall be notified by the Board within thirty (30) days of such lapse.

Any acupuncturist who fails to renew a license within four (4) years after its expiration may not renew that license. The license will become null and void and the acupuncturist will have to apply for and obtain a new license.

Any person practicing as an acupuncturist during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to Mississippi Code, Section 73-71-33 and 73-71-35.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.11 Professional Ethics. All license holders shall comply with the Code of Ethics adopted by the NCCAOM except to the extent that they conflict with the laws of the State of Mississippi or the rules of the Board. If the NCCAOM Code of Ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the Code of Ethics or state law or rules may subject a license holder to disciplinary action pursuant to Part 2625, Rule 1.10.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.12 Disciplinary Proceedings.

A. Hearing Procedure and Appeals

No individual shall be denied a license or have a license suspended, revoked or restriction placed thereon, unless the individual licensed as an acupuncturist has been given notice and opportunity to be heard. For the purpose of notice, disciplinary hearings and appeals, the Board hereby adopts and incorporates by reference all provisions of the “Rules of Procedure” now utilized by the Board for those individuals licensed to practice medicine in the state of Mississippi.

B. Reinstatement of License

1. A person whose license to practice as an acupuncturist has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate their license after a period of one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Sections 93-11-157 or 93-11-163, as the case may be.
2. The petition shall be accompanied by two (2) or more verified recommendations from physicians or acupuncturists licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he or she is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.

3. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, the offense for which he or she was disciplined, their activity during the time their license was in good standing, their general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.13 Impaired Acupuncturists. Any individual licensed to practice as an acupuncturist, shall be subject to restriction, suspension, or revocation in the case of disability by reason of one or more of the following:

- A. mental illness, or
- B. physical illness, including but not limited to deterioration through the aging process, or loss of motor skills
- C. excessive use or abuse of drugs, including alcohol

If the Board has reasonable cause to believe that an acupuncturist is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the acupuncturist shall be made, and action taken, if any, in the manner as provided in Sections 73-25-55 through 73-25-65, including referral to the Mississippi Professionals Health Program, sponsored by the Mississippi State Medical Association.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.14 Use of Professional Titles. A licensee shall use the title “Acupuncturist” or “Licensed Acupuncturist,” “Lic. Ac.,” or “L.Ac.,” immediately following his/her name on any advertising or other materials visible to the public which pertain to the licensee’s practice of acupuncture. Only persons licensed as an acupuncturist may use these titles. A licensee who is also licensed in Mississippi as a physician, dentist, chiropractor, optometrist, podiatrist, and/or veterinarian is exempt from the requirement that the licensee’s acupuncture title immediately follow his/her name.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.15 Acupuncture Advertising. Misleading or Deceptive Advertising. Acupuncturists shall not authorize or use false, misleading, or deceptive advertising, and, in addition, shall not engage in any of the following:

- A. Hold themselves out as a physician or surgeon or any combination or derivative of those terms unless also licensed by the Board of Medical Licensure as a physician as defined under the Mississippi Medical Practice Act.
- B. Use the terms "board certified." Acupuncturists may use the term “certified” provided the advertising also discloses the complete name of the board which conferred the referenced certification.
- C. Use the terms "certified" or any similar words or phrases calculated to convey the same meaning if the advertised certification has expired and has not been renewed at the time the advertising in question was published, broadcast, or otherwise promulgated.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.16 Sale of Goods from Practitioner’s Office. Due to the potential for patient exploitation in the sale of goods, acupuncturists should be mindful of appropriate boundaries with patients, should avoid coercion in the sale of goods in their offices, and should not engage in exclusive distributorship and/or personal branding.

Acupuncturists should make available disclosure information with the sale of any goods in order to inform patients of their financial interests.

Acupuncturists may distribute goods free of charge or at cost in order to make such goods readily available.

Acupuncturists may make available for sale in their offices durable medical goods essential to the patient's care and non-health related goods associated with a charitable organization.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.17 Effective Date of Rules. The above rules pertaining to the practice of acupuncturists shall become effective October 17, 2009.

Adopted January 20, 2000; amended October 17, 2009; amended March 24, 2011; amended July 10, 2014; and amended March 16, 2017.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Part 2625: Chapter 1 The Practice of Acupuncture

Rule 1.1 Scope. ~~The following rules pertain to acupuncture practitioners performing the technique of acupuncture for a patient only if the patient has received a written referral or prescription for acupuncture from a Mississippi currently licensed physician. If the patient has received a written referral or prescription for the treatment of infertility, the referral or prescription must be issued by a currently licensed Mississippi physician whose primary practice specialty is obstetrics and gynecology. . Except as otherwise provided below, the practitioner may perform acupuncture on a patient only if the patient was evaluated by a physician, as appropriate, for the condition being treated within six (6) months before the date that acupuncture is performed. The Board with advice from the Mississippi Council of Advisors in Acupuncture, may by rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph.~~

The practitioner must obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time. The form must contain a clear statement that the patient should be evaluated by a physician for the condition being treated by the practitioner.

A practitioner may, without an evaluation from a physician, perform acupuncture on a patient for:

- A. smoking addiction;
- B. weight loss; or
- C. substance abuse, to the extent permitted by the Board, with advice from the Mississippi Council of Advisors in Acupuncture.

~~The practitioner shall perform the technique of acupuncture under the general supervision of the patient's referring or prescribing physician. General supervision does not require that the acupuncturist and physician practice in the same office.~~

While treating a patient, the practitioner shall not make a medical diagnosis, but may provide pattern differentiation according to Traditional Chinese Medicine. If a patient's condition is not improving or a patient requires emergency medical treatment, the practitioner shall consult promptly with a physician.

Acupuncture may be performed in the state of Mississippi by a physician licensed to practice medicine and adequately trained in the art and science of acupuncture. Adequately trained will be defined as a minimum of 200 hours of AMA or AOA approved Category I CME in the field of acupuncture. Such licensed individuals wishing to utilize acupuncture in their practice may do so provided that any and all portions of the acupuncture treatment are performed by the person so licensed and no surrogate is authorized in this state to serve in his or her stead. The practice of acupuncture by a physician should follow the same quality of standard that the physician, or any other physician in his or her community, would render in delivering any other medical treatment. The applicable standard of care shall include all elements of a doctor-patient relationship. The elements of this valid relationship are:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. conduct an appropriate examination of the patient that meets the applicable standard of care and is sufficient to justify the differential diagnosis and proposed therapies;
- C. establish a differential diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discuss with the patient the diagnosis, risks and benefits of various treatment options and obtain informed consent;
- E. insure the availability of appropriate follow-up care including use of traditional medicine; and
- F. maintain a complete medical record.

The Board of Medical Licensure must have on file copies of required CME prior to any Mississippi licensed physician being approved to provide treatment by acupuncture. Licensees approved by the Mississippi State Board of Medical Licensure to practice acupuncture prior to January 2011 shall not be required to meet the aforementioned CME requirements.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.2 Definitions. For the purpose of Part 2625, Chapter 1 only, the following terms have the meanings indicated:

- A. “Board” means the Mississippi State Board of Medical Licensure.
- B. “Council” means the Mississippi Council of Advisors in Acupuncture.
- C. “NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.
- D. “ACAOM” means the Accreditation Commission of Acupuncture and Oriental Medicine.
- E. “CCAOM” means the Council of Colleges of Acupuncture and Oriental Medicine.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.3 Qualifications for Licensure. On or after July 1, 2009, applicants for acupuncture licensure must meet the following requirements:

- A. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
- B. Satisfy the Board that he or she is a citizen or permanent resident of the United States of America.
- C. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
- D. Pay the appropriate fee as determined by the Board.
- E. Present a certified copy of birth certificate or valid and current passport.
- F. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
- G. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.
- H. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.

- I. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.
- J. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
 1. If taken before June 1, 2004, pass the Comprehensive Written Exam (CWE), the Clean Needle Technique portion (CNTP), and the Practical Examination of Point Location Skills (PEPLS).
 2. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
 3. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
- K. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
 1. Passage of the NCCAOM examination taken in English.
 2. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
 3. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.
 4. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.
- L. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.
- M. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.
- N. Provide proof of malpractice insurance with a minimum of \$1 million dollars in coverage.
- O. Submit fingerprints for state and national criminal history background checks.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.4 Practice Standards. Before treatment of a patient, the acupuncturist (if not a Mississippi licensed physician) shall be sure that the patient has been ~~examined and referred~~ evaluated by a licensed physician for the condition to be treated within the last six (6) months. The Board, with advice from the Mississippi Council of Advisors in Acupuncture, may be rule modify the scope of the evaluation under this paragraph or the period during which treatment must begin under this paragraph and shall review the diagnosis for which the patient is receiving treatment.

The acupuncturist shall obtain informed consent from the patient after advising them of potential risks and benefits of acupuncture treatment plan.

The acupuncturist shall obtain a written ~~prescription or referral~~ statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by ~~a~~ from the patient's licensed physician within the prescribed time.

The acupuncturist shall obtain a detailed medical history that would identify contraindications to acupuncture such as a bleeding disorder.

An acupuncture practitioner will use sterilized equipment that has been sterilized according to standards of the Centers for Disease Control and Prevention (CDC).

An acupuncturist shall comply with all applicable state and municipal requirements regarding public health.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.5 Patient Records. A licensed acupuncturist shall maintain a complete and accurate record of each patient. The record shall be sufficient to demonstrate a valid acupuncturist-patient relationship:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. obtain a written statement signed by the patient on a form prescribed by the Board stating that the patient has been evaluated by a physician within the prescribed time;
- C. conduct and appropriate examination of the patient that meets the applicable standard of care and is sufficient to justify the differential diagnosis and proposed therapies;
- D. establish a differential diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- E. discuss with the patient the diagnosis, risks and benefits of various treatment options and obtain informed consent;
- F. insure the availability of appropriate follow-up care including use of traditional medicine; and
- G. maintain a complete medical record.

Patient records must be maintained for a period of seven (7) years from the date of last treatment or longer if required by future statute or regulation.

At patient's request, the acupuncturist shall provide the patient or other authorized person a copy of the acupuncture record. Refer to Administrative Code Part 2635 Chapter 10, Release of Medical Records.

Acupuncturists are subject to a peer review process conducted by the Council.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

~~*Rule 1.6 Supervision.* Any acupuncturist licensed to practice as an acupuncturist in this state shall perform the technique of acupuncture for a patient only if the patient has received a written referral or prescription for acupuncture from a physician. As specified in the referral or prescription, the Mississippi licensed acupuncturist shall provide reports to the physician on the patient's condition or progress in treatment and comply with the conditions or restrictions on the acupuncturist's course of treatment.~~

~~The acupuncturist shall perform the technique of acupuncture under the general supervision of the patient's referring or prescribing physician. General supervision does not require that the acupuncturist and physician practice in the same office.~~

Before treating a patient, the acupuncturist shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment and shall obtain the informed consent of the patient.

On initially meeting a patient in person, the acupuncturist shall provide in writing the acupuncturist's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.

While treating a patient, the acupuncturist shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the acupuncturist shall consult promptly with a physician.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

~~Rule 1.7 Supervising Physician Limited. Before making the referral or prescription for acupuncture, the physician shall have a valid physician-patient relationship as described, supra. The physician shall perform a medical diagnostic examination of the patient and review the results of care provided by other physicians and relevant medical records.~~

~~The physician shall make the referral or prescription in writing and specify in the referral or prescription all of the following:~~

- ~~A. The physician's diagnosis of the ailment or condition that is to be treated by acupuncture;~~
- ~~B. A time by which or the intervals at which the acupuncturist must provide reports to the physician regarding the patient's condition or progress in treatment; and~~
- ~~C. The conditions or restrictions placed on the acupuncturist's course of treatment.~~

~~The physician shall be personally available for consultation with the acupuncturist. If the physician is not on the premises at which acupuncture is performed, the physician shall be readily available to the practitioner through some means of telecommunication and be in a location that under normal circumstances is not more than sixty (60) minutes travel time away from the location where the practitioner is practicing.~~

~~Source: Miss. Code Ann. §73-71-13 (1972, as amended).~~

~~Rule 1.87 Duty to Notify Board of Change of Address. Any acupuncturist who is licensed to practice as an acupuncturist in this state and changes their practice location or mailing address shall immediately notify the Board in writing of the change. Failure to notify within 30 days could result in disciplinary action.~~

The Board routinely sends information to licensed acupuncturists. Whether it be by U.S. Mail or electronically, it is important that this information is received by the licensee. The licensure record of the licensee should include a physical practice location, mailing address, email address and telephone number where the Board can correspond with the licensee directly. The Board discourages the use of office personnel's mailing and email addresses as well as telephone numbers. Failure to provide the Board with direct contact information could result in disciplinary action.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.9-8 Continuing Education.

- A. Every acupuncturist must earn or receive not less than thirty (30) hours of acupuncture related continuing education courses as precedent to renewing their license for the next fiscal year. This thirty (30) hours is per two-year cycle. Excess hours may not be carried over to another two-year cycle. *For the purpose of this regulation, the two-year period begins July 1, 2010, and every two years thereafter.* Continuing education courses must be sponsored and/or approved by one of the following organizations:
 1. Mississippi Council of Advisors in Acupuncture
 2. Mississippi Oriental Medicine Association
 3. ~~American Association of Acupuncture and Oriental Medicine~~ Society of Acupuncturists
 4. National Certification Commission for Acupuncture and Oriental Medicine
 5. American Acupuncture Council
 6. American Board of Oriental Reproductive Medicine
- B. All persons licensed as acupuncturists must comply with the following continuing education rules as a prerequisite to license renewal.
 1. Acupuncturists receiving their initial license to perform acupuncture in Mississippi after June 30 are exempt from the minimum continuing education requirement for the two-year period following their receiving a license. The thirty (30) hour continuing education certification will be due within the next two-year cycle.
 2. The approved hours of any individual course or activity will not be counted more than once in a two (2) year period toward the required hour total regardless of the number of times the course or activity is attended or completed by any individual.
 3. The Board may waive or otherwise modify the requirements of this rule in cases where there is illness, military service, disability or other undue hardship that prevents a license holder from obtaining the requisite number of continuing education hours. Requests for waivers or modification must be sent in writing to the Executive Director prior to the expiration of the renewal period in which the continuing education is due.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.109 Violations. Any acupuncturist who falsely attests to completion of the required continuing education may be subject to disciplinary action pursuant to Mississippi Code, Section 73-71-33 and 73-71-35.

Any acupuncturist that fails to obtain the required continuing education may be subject to disciplinary action pursuant to Mississippi Code, Section 73-71-33 and 73-71-35, and may not be allowed to renew license. If continuing education deficiencies are discovered during an audit of the licensee, the licensee shall be suspended from practice for the longer of (i) a period of 3 months or (ii) until deficiencies are remedied. Any licensee suspended as a result of a continuing education audit may request a hearing for the purpose of appealing the suspension. Suspension as a result of falsified certification of continuing education shall begin upon determination of the false certification and shall not require notice or hearing as described below.

Continuing education obtained as a result of compliance with the terms of the Board Orders in any disciplinary action shall not be credited toward the continuing education required to be obtained in any two (2) year period.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

*Rule 1.140*Renewal Schedule. The license of every person licensed to practice as an acupuncturist in the state of Mississippi shall be renewed annually.

On or before May 1 of every year, the State Board of Medical Licensure shall notify every acupuncturist to whom a license was issued or renewed during the current licensing period of the forthcoming annual renewal of license. The notice shall provide instructions for obtaining and submitting applications for renewal. The applicant shall obtain and complete the application and submit it to the Board in the manner prescribed by the Board in the notice before June 30 with the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all acupuncturists over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a license of renewal for the ensuing one (1) year period, beginning July 1 and expiring June 30 of the succeeding licensure period.

An acupuncturist practicing in Mississippi who allows a license to lapse by failing to renew the license as provided in the foregoing paragraph may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year. If the license has not been renewed within ninety (90) days after its expiration, the renewal shall be assessed a late fee of \$200.

Any acupuncturist who allows a license to lapse shall be notified by the Board within thirty (30) days of such lapse.

Any acupuncturist who fails to renew a license within four (4) years after its expiration may not renew that license. The license will become null and void and the acupuncturist will have to apply for and obtain a new license.

Any person practicing as an acupuncturist during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to Mississippi Code, Section 73-71-33 and 73-71-35.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

*Rule 1.121*Professional Ethics. All license holders shall comply with the Code of Ethics adopted by the NCCAOM except to the extent that they conflict with the laws of the State of Mississippi or the rules of the Board. If the NCCAOM Code of Ethics conflicts with state law or rules, the state law or rules govern the matter. Violation of the Code of Ethics or state law or rules may subject a license holder to disciplinary action pursuant to Part 2625, Rule 1.10.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

*Rule 1.132*Disciplinary Proceedings.

A. Hearing Procedure and Appeals

No individual shall be denied a license or have a license suspended, revoked or restriction placed thereon, unless the individual licensed as an acupuncturist has been given notice and opportunity to be heard. For the purpose of notice, disciplinary hearings and appeals, the Board hereby adopts and incorporates by reference all provisions of the “Rules of Procedure” now utilized by the Board for those individuals licensed to practice medicine in the state of Mississippi.

B. Reinstatement of License

1. A person whose license to practice as an acupuncturist has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate their license after a period of one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Sections 93-11-157 or 93-11-163, as the case may be.
2. The petition shall be accompanied by two (2) or more verified recommendations from physicians or acupuncturists licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he or she is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.

3. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, the offense for which he or she was disciplined, their activity during the time their license was in good standing, their general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.143 Impaired Acupuncturists. Any individual licensed to practice as an acupuncturist, shall be subject to restriction, suspension, or revocation in the case of disability by reason of one or more of the following:

- A. mental illness, or
- B. physical illness, including but not limited to deterioration through the aging process, or loss of motor skills
- C. excessive use or abuse of drugs, including alcohol

If the Board has reasonable cause to believe that an acupuncturist is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the acupuncturist shall be made, and action taken, if any, in the manner as provided in

Sections 73-25-55 through 73-25-65, including referral to the Mississippi Professionals Health Program, sponsored by the Mississippi State Medical Association.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.154 Use of Professional Titles. A licensee shall use the title “Acupuncturist” or “Licensed Acupuncturist,” “Lic. Ac.,” or “L.Ac.,” immediately following his/her name on any advertising or other materials visible to the public which pertain to the licensee’s practice of acupuncture. Only persons licensed as an acupuncturist may use these titles. A licensee who is also licensed in Mississippi as a physician, dentist, chiropractor, optometrist, podiatrist, and/or veterinarian is exempt from the requirement that the licensee’s acupuncture title immediately follow his/her name.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.165 Acupuncture Advertising. Misleading or Deceptive Advertising. Acupuncturists shall not authorize or use false, misleading, or deceptive advertising, and, in addition, shall not engage in any of the following:

- A. Hold themselves out as a physician or surgeon or any combination or derivative of those terms unless also licensed by the Board of Medical Licensure as a physician as defined under the Mississippi Medical Practice Act.
- B. Use the terms "board certified." Acupuncturists may use the term “certified” provided the advertising also discloses the complete name of the board which conferred the referenced certification.
- C. Use the terms "certified" or any similar words or phrases calculated to convey the same meaning if the advertised certification has expired and has not been renewed at the time the advertising in question was published, broadcast, or otherwise promulgated.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.176 Sale of Goods from Practitioner’s Office. Due to the potential for patient exploitation in the sale of goods, acupuncturists should be mindful of appropriate boundaries with patients, should avoid coercion in the sale of goods in their offices, and should not engage in exclusive distributorship and/or personal branding.

Acupuncturists should make available disclosure information with the sale of any goods in order to inform patients of their financial interests.

Acupuncturists may distribute goods free of charge or at cost in order to make such goods readily available.

Acupuncturists may make available for sale in their offices durable medical goods essential to the patient’s care and non-health related goods associated with a charitable organization.

Source: Miss. Code Ann. §73-71-13 (1972, as amended).

Rule 1.187 Effective Date of Rules. The above rules pertaining to the practice of acupuncturists shall become effective October 17, 2009.

Adopted January 20, 2000; amended October 17, 2009; amended March 24, 2011;

amended July 10, 2014; and amended March 16, 2017.
Source: Miss. Code Ann. §73-71-13 (1972, as amended).

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MYRON C. STOKES, SR., M.D.

ORDER AUTHORIZING RETURN TO PRACTICE

THIS MATTER came on regularly for hearing on July 20, 2017, before the Mississippi State Board of Medical Licensure (hereinafter referred to as "Board") in response to the petition of Myron C. Stokes, Sr., M.D. (hereinafter referred to as "Licensee") for authorization to return to the practice of medicine.

Licensee was present, represented by Honorable Doug Mercier. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for the matter were Charles D. Miles, M.D., President, Jeanne Ann Rea, M.D., Claude D. Brunson, M.D., Virginia M. Crawford, M.D., S. Randall Easterling, M.D., Charles K. Lippincott, M.D. and Michelle Y. Owen, M.D.

On March 11, 2015, Licensee entered into a Monitoring Agreement with the Mississippi Physician Health Program (MPHP) due to boundary and physical health reasons. Thereafter, following non-compliance with the Monitoring Agreement, the Board entered an Order of Prohibition on January 6, 2016, whereby Licensee was prohibited from practicing medicine until such time as (i) he came into compliance with all terms and conditions of his Monitoring Agreement, and (ii) was thereafter deemed to be able to practice medicine with reasonable skill and safety to patients, including re-evaluation deemed necessary and appropriate under the circumstances. In addition, as a condition for the return to practice,

Licensee was required to secure and maintain affiliation with the MPHP. Licensee now appears before the Board presenting documentation and testimony that he has completed all required re-evaluation, assessments and treatment. Furthermore, testimony was received from Scott Hambleton, M.D., Medical Director of the MPHP indicating that Licensee has taken all steps necessary to obtain affiliation with the MPHP and is now able to return to practice with reasonable skill and safety to patients, subject to compliance with a new life-time monitoring agreement and compliance with certain limitations as hereinafter enumerated.

After consideration of all evidence and testimony, the Board finds Licensee's request to be well taken.

IT IS, THEREFORE, ORDERED that the previously issued Order of Prohibition is lifted and Licensee is hereby authorized to return to the practice of medicine, subject to the following limitations:

1. Licensee shall at all times maintain complete advocacy with the Mississippi Physician Health Program and comply with the life-time monitoring agreement which he has entered into with the MPHP.
2. Licensee's practice shall be limited to an office-based general practice.
3. Until authorized in writing by the Board, Licensee shall not conduct any surgery other than hemorrhoid banding and colonoscopies.
4. Until authorized in writing by the Board, Licensee shall not do any emergency room work.

IT IS FURTHER ORDERED, that pursuant to Miss. Code Ann. Section 73-25-27, a copy of this Order shall be sent by registered mail or personally served upon Myron C. Stokes, Sr., M.D.

ORDERED, this the 20th day of July, 2017.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

By: 
Charles D. Miles, M.D., President

Executive Session
Mississippi Board of Medical Licensure
July 20, 2017

AGENDA ITEM: Hearing in the case of Thomas E. Sturdavant, M.D. License No. 16798

In a motion by Dr. Brunson, seconded by Dr. Crawford, and carried, the Board elected to withdraw the summons and complaint without prejudice; for lack of clear and convincing evidence; Dr. Sturdavant remains under the existing agreement with the Board

VOTE:	FOR:	AGAINST:	ABSTAIN:	ABSENT:
Claude D. Brunson, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.		X		
C. Ken Lippincott, M.D.	X			
William S. Mayo, M.D.				X
W. David McClendon, M.D.				X
Charles D. Miles, M.D.	X			
Michelle Y. Owens, M.D.	X			
J. Ann Rea, M.D.	X			



Charles Miles, M.D., President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

THOMAS E. STURDAVANT, M.D.

ORDER OF DISMISSAL

THIS MATTER came on regularly for hearing on July 20, 2017, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. The Board initiated these proceedings on April 10, 2017, by issuance of a Summons and Affidavit against Thomas Edward Sturdavant, M.D. (hereinafter "Licensee") setting forth two (2) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee was present, represented by Honorable William E. Whitfield III. Complaint Counsel for the Board was Honorable Cassandra Walter. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for the matter were Charles D. Miles, M.D., President, Jeanne Ann Rea, M.D., Claude D. Brunson, M.D., Virginia M. Crawford, M.D., S. Randall Easterling, M.D., Charles K. Lippincott, M.D. and Michelle Y. Owen, M.D.

After hearing all evidence and testimony supporting the Board's case, it is the opinion of the Board that the charges as now pending are not supported by substantial evidence.

IT IS, THEREFORE, ORDERED, that this matter is dismissed without prejudice, but conditioned on Licensee's continued compliance with his letter agreement of November 14, 2013.

ORDERED, this the 20th day of July, 2017.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: 

Charles D. Miles, M.D.
President