

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi State Board Of Medical Licensure		CONTACT PERSON Mike Lucius	TELEPHONE NUMBER (601)987-0248	
ADDRESS 1867 Crane Rldge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL mboard@msbml.ms.gov	SUBMIT DATE 9/28/18	Name or number of rule(s): Part 2640 Prescribing, Administering and Dispensing 1.11		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 1.11 is being modified to clarify the rules regarding all medications prescription guidellnes.

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

List all rules repealed, amended, or suspended by the proposed rule: Part 2640: Prescribing, Administering and Dispensing, Rule 1.11

ORAL PROCEEDING:

- An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____
- Presently, an oral proceeding is not scheduled on this rule.

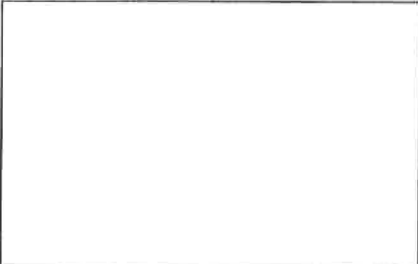
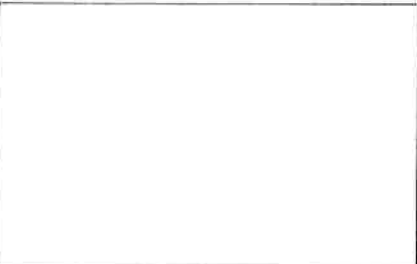
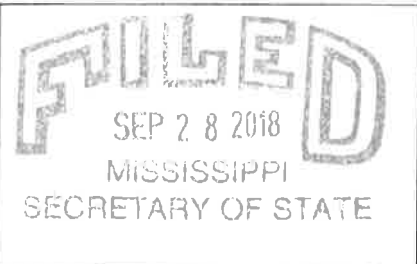

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) 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>06/13/2018</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text <input 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: Mike Lucius, Deputy Director
 Signature of person authorized to file rules: *Mike Lucius*

OFFICIAL FILING STAMP  Accepted for filing by	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by	OFFICIAL FILING STAMP  Accepted for filing by <i>H.2370.2</i> 
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Part 2640: Prescribing, Administering and Dispensing

Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication

Rule 1.11 Prescription Guidelines - All Medications. In addition to any other requirements set forth in these rules pertaining to the issuance of prescriptions of controlled substances, the following additional requirements apply to all prescriptions, whether or not said prescriptions are for controlled substances, legend drugs or any other medication:

- A. Prescriptions may not be written outside of a valid licensee-patient relationship. While not all of the elements in subsection A are necessary each time a prescription is authorized (e.g., via appropriate telemedicine as defined in Rule 5.5 of Part 2635, calling in refills, taking call for a practice partner for short term care, etc.), all initial encounters, and at reasonable intervals thereafter, should conform to this rule and be done pursuant to a valid licensee-patient relationship. The elements of this valid relationship are:
 - 1. verify that the person requesting the medical treatment is in fact who they claim to be;
 - 2. conducting an appropriate history and physical examination of the patient that meets the applicable standard of care, which as previously stated may also be accomplished through appropriate telemedicine as defined in Part 2635 Rule 5.5;
 - 3. 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;
 - 4. discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;
 - 5. insuring the availability of appropriate follow-up care; and
 - 6. maintaining a complete medical record available to patient and other treating health care providers.
- B. Electronic prescription transmission is permitted provided the transmission meets applicable state and federal standards for transmission. E-prescribing is the electronic entry of a prescription by a licensee, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner.
- C. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the licensee. This does not prohibit the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions must be authorized by a written or electronic signature and must be issued in accordance with all other provisions of this rule. No prescriptions for any form or compound containing nalbuphine HCl, carisoprodol, butalbital compounds, or tramadol HCl shall be telefaxed.
- D. Electronic prescriptions for controlled substances are permitted if a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances prescriptions.
- E. All written prescriptions must be on forms containing two lines for the licensee's signature. There must be a signature line in the lower right-hand corner of the prescription form beneath which must be clearly imprinted the words "substitution permissible." There must be a signature line in the lower left corner of the prescription

form beneath which must be clearly imprinted with the words “dispense as written.” The licensee's signature on either signature line must validate the prescription and designate approval or disapproval of product selection. Each prescription form must bear the pre-printed name of the licensee or the licensee must clearly print his or her name on the prescription form, in addition to the licensee’s original signature. In the event that the prescription form bears the pre-printed name of more than one licensee, the licensee must clearly indicate the name of the licensee writing the prescription. In the case of a prescription that is electronically generated and transmitted, the licensee must make an overt act when transmitting the prescription to indicate either “dispense as written” or “substitution permissible”. When done in conjunction with the electronic transmission of the prescription, the prescriber’s overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

- F. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.11.D is utilized by the licensee, he or she must write in his or her own handwriting the words “dispense as written” thereupon to prevent product selection.

Every written prescription issued by a licensee for a legend drug should clearly state whether or not the prescription should be refilled, and if so, the number of authorized refills and/or the duration of therapy. Licensee s should avoid issuing prescriptions refillable on “prn” basis. If a licensee chooses to issue a prescription refillable “prn”, the life of the prescription or time limitation must clearly be set forth on the prescription. In no case shall a prescription which is refillable on a “prn” basis be refilled after the expiration of one (1) year. Regardless of whether a prescription is refillable on a “prn” basis or the prescription expressly states the number of authorized refills, the use of said medication should be re-evaluated on at least an annual basis. Upon the expiration of one (1) year, a prescription becomes invalid, regardless of the number of refills indicated or “prn” designation.

- G. Every written prescription issued by a licensee, bearing more than one non-controlled medication, must clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank must be clearly voided by the issuing licensee.
- H. A prescription will no longer be valid after the occurrence of any one of the following events:
1. Thirty (30) days after the death of the issuing licensee.
 2. Thirty (30) days after the issuing licensee has moved or otherwise changed practice location resulting in termination of the licensee patient relationship. Termination of the licensee patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing licensee.
 3. Immediately after loss of DEA Controlled Substances Privilege by the issuing licensee if the prescription is for controlled substances.
 4. Immediately upon revocation, suspension or surrender of the licensee's license.

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



RESOLUTION

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

NOW, THEREFORE, LET IT BE RESOLVED BY THE OCCUPATIONAL LICENSING REVIEW COMMISSION, that the following rules shall be known to have been approved by the Commission at a duly called meeting of its members on September 10, 2018, and may now be filed as final with the Secretary of State's Office for the inclusion in the Mississippi

Administrative Code:

- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.1; Rule 1.1 is being updated to clarify which licensees the rule will affect.
- Rules of the Board of Medical Licensure, *as amended* – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.2; Rule 1.2 is being updated to clarify and define terms used throughout Chapter 1. *Approved as amended to fix a clerical error in Rule 1.2 I. and to add the words 'any licensee' to Rule 1.2 M.*
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.3; Rule 1.3 is being modified to require registration by licensees to the Prescription Monitoring Program and requirements for review of the PMP reports.

- Rules of the Board of Medical Licensure, *as amended* – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.4; Rule 1.4 is being modified to require licensees to maintain a records and inventories log and the requirements associated with the logs.
Approved as amended to add a reference to the telemedicine Rule 5.5.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.5; Rule 1.5 is being modified to clarify the rules regarding the use of diet medication.
- Rules of the Board of Medical Licensure, *as amended* – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.6; Rule 1.6 is being modified to clarify the rules regarding bariatric medicine, medical weight loss and weight management practices.
Approved as amended to include 'medical director' as a title for the licensed physician associated with a bariatric medicine, medical weight loss, or weight management practice.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.7; Rule 1.7 is being modified to clarify the rules regarding the use of controlled substances for chronic pain.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.8; Rule 1.8 is being modified to clarify the rules regarding drug maintenance requirements.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.9; Rule 1.9 is being modified to clarify the rules regarding the labeling requirements for dispensing physicians.

- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.10; Rule 1.10 is being modified to clarify the rules regarding the controlled substances prescription guidelines.
- Rules of the Board of Medical Licensure, *as amended* – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.11; Rule 1.11 is being modified to clarify the rules regarding the all medications prescription guidelines. *Approved as amended to add a reference to the telemedicine Rule 5.5 to Rule 1.11A.2.*
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.12; Rule 1.12 is being modified to include licensees instead of only physicians in the Freedom of Choice rule.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.13; Rule 1.13 is being deleted and replaced with Rule 1.14.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.14; Rule 1.15 is now Rule 1.14. The rule is being updated to reflect changes in the operation of pain management medical practices.
- Rules of the Board of Medical Licensure – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.15; Rule 1.16 is now Rule 1.15. The rule is being updated with cosmetic changes only.
- Rules of the Board of Medical Licensure, *as amended* – Title 30 Part 2640 Prescribing, Administering and Dispensing Rule 1.16; Rule 1.17 is now Rule 1.16. The rule is being updated with cosmetic changes only. *Approved as amended to change the effective date.*