



Mississippi State Board of Medical Licensure

Administrative Code

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Title 30: Professions and Occupation

Part 2601: Professional Licensure

Part 2601 Chapter 1: Licensure Rules Governing the Practice of Allopathic Physicians, Osteopathic Physicians, Podiatrists, Physician Assistants, Radiologist Assistants and Acupuncturists

Rule 1.1 Scope. These rules apply to all applicants for licensure to practice allopathic medicine, osteopathic medicine, podiatric medicine, or acupuncture in the state of Mississippi and to all individuals practicing allopathic medicine, osteopathic medicine, podiatric medicine, or acupuncture within the state whether licensed or unlicensed.

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

Rule 1.2 Definitions. For the purpose of these rules, the following terms have the meanings indicated:

- A. Board means the Mississippi State Board of Medical Licensure.
- B. Physician means any person with a valid doctor of medicine, doctor of osteopathy or doctor of podiatry degree.
- C. LCME means the Liaison Committee on Medical Education, the organization recognized by the American Medical Association for accrediting American medical schools.
- D. ACGME means Accreditation Council of Graduate Medical Education.
- E. RCPS means Royal College of Physicians and Surgeons.
- F. ABMS means American Board of Medical Specialties.
- G. AMA means the American Medical Association.
- H. FSMB means the Federation of State Medical Boards.
- I. FLEX means the Federation Licensing Examination administered through the FSMB.
- J. NBME means National Board of Medical Examiners.
- K. USMLE means United States Medical Licensing Examination administered jointly through the FSMB and NBME.
- L. SPEX means the Special Purpose Examination administered through the FSMB.
- M. NBOME means the National Board of Osteopathic Medical Examiners.
- N. COMLEX means the Comprehensive Osteopathic Medical Licensing Examination administered through the NBOME.
- O. COMVEX means the Comprehensive Osteopathic Medical Variable-Purpose Examination administered through the NBOME.
- P. AOA means American Osteopathic Association.
- Q. LMCC means Licentiate of the Medical Council of Canada.
- R. APMA means American Podiatric Medical Association.
- S. ABPM means American Board of Podiatric Medicine.
- T. ABPS means American Board of Podiatric Surgery.
- U. FPMB means Federation of Podiatric Medical Boards.

- V. CPME means Council on Podiatric Medical Education.
- W. NBPME means National Board of Podiatric Medical Examiners.
- X. APMLE means American Podiatric Medical Licensing Examination administered through the NBPME.
- Y. NPDB means National Practitioner Data Bank.
- Z. ECFMG means the Education Commission for Foreign Medical Graduates.
- AA. Foreign Medical School means any medical college or college of osteopathic medicine located outside the United States, Canada or Puerto Rico.
- BB. IMED means International Medical Education Directory.
- CC. Good Moral Character as applied to an applicant, means that the applicant has not, prior to or during the pendency of an application to the Board, been guilty of any act, omission, condition or circumstance which would provide legal cause under Sections 73-25-29 or 73-25-83, Mississippi Code, for the suspension or revocation of medical licensure.

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

Rule 1.3 Duty to Obtain License. Any physician, physician assistant, radiologist assistant or acupuncturist desiring to practice in this state must first obtain a license to do so by completing an application for licensure and submitting all requested documentation to the Board.

A physician, physician assistant, radiologist assistant or acupuncturist who is participating in or who has participated in an impaired professionals program as approved by the Board must document a two-year period of abstinence from any abusive use of mood-altering drugs, which shall include, but not be limited to, alcohol and all substances listed in Schedules I through V of the Uniform Controlled Substances Law, Mississippi Code, from the date of completion of the program before he or she is eligible for a permanent license to practice medicine, podiatry or acupuncture in Mississippi.

Prior to the issuance of, or reinstatement of a license, any physician, physician assistant, radiologist assistant or acupuncturist who has not actively practiced for a three (3) year period shall be required to participate in a Board approved assessment program, clinical skills assessment program or re-entry program to assure post-licensure competency.

A physician, physician assistant, radiologist assistant, or acupuncturist shall be deemed to have not actively practiced medicine if during said three (3) year period the physician, physician assistant, radiologist assistant or acupuncturist has not treated any patients for remuneration, other than friends and family.

The preceding three paragraphs exclude those physicians, physician assistants, radiologist assistants or acupuncturists who perform charity work or work in research.

Amended April 15, 1999. Amended May 17, 2007.

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

Part 2601 Chapter 2: Effect of Application

Rule 2.1 Effect of Application. The submission of an application for licensing to the Board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated; each state or federal agency to which the applicant has applied for any license, permit, certificate or registration; each person, firm, corporation, clinic, office or institution by whom or with whom the applicant has been employed in the practice of medicine; each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the Board any and all information and documentation concerning the applicant which the Board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the Board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

By submission of an application for licensing to the Board, an applicant shall be deemed to have given his or her consent to submit to physical or mental examinations if, when and in the manner so directed by the Board and to waive all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

The submission of an application for licensing to the Board shall constitute and operate as an authorization and consent by the applicant to the Board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the Board from other persons, firms, corporations, associations or governmental entities pursuant to Part 2601, Chapter 2, Rule 2.1 paragraphs 1 and 2, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefore, including, without limitation, the medical licensing authority of any state; The FSMB; the AMA and any component state and county or parish medical society, including the Mississippi State Medical Association and component societies thereof; the AOA and any component state and county or parish osteopathic medical society, including the Mississippi Osteopathic Medical Association and component societies thereof; the U.S. Drug Enforcement Administration; the Mississippi State Bureau of Narcotics; federal, state, county or municipal health and law enforcement agencies and the Armed Services. It is the intent and purpose of this rule to authorize release of only that licensure information not prohibited from release under Section 73-52-1, Mississippi Code.

Upon submission of an application for licensure to the Board, the applicant shall promptly provide all information deemed necessary by the Board to process the application, including, but not limited to certification of graduation from medical school, photograph of applicant, internship certification and birth certificate. The Board shall have a reasonable period of time within which to collect and assimilate all required documents and information necessary to issue a medical license. If, after submitting an application for medical license, an applicant has failed to respond or make a good faith effort to pursue licensure for a period of three (3) months, the application will be considered null and void, and applicant will have to reapply for licensure,

including, but not limited to, all fees, application, and certifications. Additionally, if after one year from the date of receipt of application, applicant has not received a medical license, the application will be considered null and void, and applicant will have to reapply for licensure, including, but not limited to, all fees, application, and certifications. Under no circumstances will the one year time limit be waived.

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

Part 2605: Medical, Osteopathic and Podiatric Physicians

Part 2605 Chapter 1: Licensure Requirements for the Practice of Allopathic Doctors and Osteopathic Physicians

Rule 1.1 Licensure by Credentials. The Board endorses licenses to practice medicine obtained in most states by written examination prior to March 8, 1973. Subject to the provisions of Part 2605, Rule 1.2, all applicants for medical licensure who took the FLEX between March 8, 1973, and January 24, 1985, must have passed the FLEX taken in one three-day sitting with a weighted average of 75 or higher in order to obtain licensure in Mississippi. The Board will not accept scores of more than one administration of the FLEX which have been combined (factored) to provide a FLEX weighted average of 75 or higher. From and after January 24, 1985, an applicant for medical licensure by reciprocity must have passed both Components I and II of the FLEX with a score of 75 to be considered the passing grade for each component. From and after June 1994, the Board shall endorse licenses to practice medicine from applicants who have successfully taken Steps 1, 2 and 3 of the USMLE.

Those doctors of osteopathic medicine who graduated prior to June 1, 1973, will be considered only if they took and passed the same written licensure examination given in that state at that time to graduates of medical schools. A statement to this effect must be submitted to this Board from that licensing board.

The Board may endorse Diplomates of the NBME; the NBOME (COMLEX), if examination completed on or after February 13, 1973, or licentiates of the Medical Council of Canada.

The Board may consider licensure to a graduate of a foreign medical school who was licensed in another state by written examination prior to March 8, 1973, if he or she is certified by a board recognized by the ABMS.

In addition to the above requirements for licensure by credentials, an individual shall meet the following requirements:

- A. Applicant must be twenty-one (21) years of age and of good moral character.
- B. Present a diploma from a reputable medical college or college of osteopathic medicine, subject to the following conditions:
 1. If the degree is from a medical college or a college of osteopathic medicine in the United States or Puerto Rico, the medical college must be accredited at the time of graduation by the LCME, a Joint Committee of the Association of American Medical Colleges (AAMC) and the AMA or the College of Osteopathic Medicine which must be accredited by the AOA.

2. If the degree is from a Canadian medical school, the school must be accredited at the time of graduation by the LCME and by the Committee on Accreditation for Canadian Medical Schools.
 3. If the degree is from a foreign medical school, an applicant must either (i) possess a valid certificate from the ECFMG or (ii) document successful completion of a Fifth Pathway program and be currently board certified by a specialty board recognized by the ABMS. The Board will accept for licensure only those individuals completing Fifth Pathway Programs by December 31, 2009. Credentialing via Fifth Pathway Programs will be considered on an individual basis.
 4. Any diploma or other document required to be submitted to the Board by an applicant which is not in the English language must be accompanied by a certified translation thereof into English.
- C. If a graduate from a medical college or college of osteopathic medicine in the United States, Canada or Puerto Rico, applicant must present documentation of having completed at least one (1) year of postgraduate training in the United States accredited by the ACGME or by the AOA; or training in Canada accredited by the RCPS.
- D. If a graduate from a foreign medical school, applicant must present documentation of having completed either:
1. three (3) or more years of ACGME-approved postgraduate training in the United States or training in Canada approved by the RCPS; or
 2. one (1) year of ACGME-approved postgraduate training in the United States or training in Canada approved by the RCPS, be currently board certified by a specialty board recognized by the ABMS and must have approval by the Board.
- E. An applicant who otherwise possesses all of the qualifications for licensure by credentials, but has not taken a medical proficiency examination or licensure examination within ten (10) years prior to filing his or her application, must pass the SPEX or COMVEX*, unless the applicant:
1. Submits satisfactory proof of current certification by an ABMS and participating in Maintenance of Certification (MOC) or AOA approved specialty board and participating in Osteopathic Continuous Certification (OCC); or
 2. Submits proof that the applicant's sole purpose for seeking licensure is to serve as the Dean, Chairman of the Department or Faculty of an ACGME or AOA approved training program. In such case, a license shall remain in effect so long as Licensee is a member of the faculty of the ACGME or AOA approved training program.

* SPEX (SPECIAL PURPOSE EXAMINATION) is a cognitive examination assisting licensing jurisdictions in their assessment of current competence requisite for general, undifferentiated medical practice by physicians who hold or have held a valid license in a U.S. jurisdiction. SPEX is made available through the Federation of State Medical Boards.

COMVEX-USA (COMPREHENSIVE OSTEOPATHIC MEDICAL VARIABLE EXAMINATION) is the evaluative instrument offered to osteopathic physicians who need to demonstrate current osteopathic medical knowledge. COMVEX-USA is made available through the National Board of Osteopathic Medical Examiners.

- F. Submit certified copy of birth certificate or valid passport.
- G. Complete an application for medical license and submit it to the Board in a manner prescribed by the Board with a recent passport type photograph.
- H. Submit fee prescribed by the Board.
- I. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.

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

Rule 1.2 Waiver. Notwithstanding the above requirements for Licensure by Credentials in Rule 1.1, the Board may, upon written request by the physician and after review of all relevant factors, choose to waive any or all of the existing requirements for licensure. To be considered for a waiver, the physician must:

- A. be a graduate of an approved medical school;
- B. have a current unrestricted license in another state; and
- C. have at least 3 years of clinical experience in the area of expertise.

In determining whether to grant the waiver, factors to be considered by the Board shall include, but not be limited to:

- A. the medical school from which the physician graduated and its reputation;
- B. post-graduate medical education training;
- C. appointment to a clinical academic position at a licensed medical school in the United States;
- D. publication in peer-reviewed clinical medical journals recognized by the Board;
- E. the number of years in clinical practice;
- F. specialty, if the physician plans to practice in Mississippi; and
- G. other criteria demonstrating expertise, such as awards or other recognition.

Requests for waivers must be submitted in writing to the Executive Director of the Board, who will then review each request with a committee appointed by the president of the Board, taking into account the above factors. The committee shall consist of the Executive Director, a staff employee of the Board, and two voting members of the Board. Recommendations from the committee shall be presented to the Board for approval.

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

Rule 1.3 Licensure Examinations. The Board recognizes four (4) separate and distinct examinations, to-wit: The examinations administered by the NBME, NBOME (COMLEX), FLEX and USMLE. The Board adopted the FLEX as a method of licensure by examination on March 8, 1973. Prior to this date, the Board administered a written examination and endorsed licenses to practice medicine or osteopathic medicine obtained in most states by written examination. A separate discussion of each examination and this Board's requirements for the purpose of licensure is as follows:

A. FLEX

- 1. The Board adopted the FLEX as the method of licensure by examination on March 8, 1973. The last regular administration of the FLEX was December 1993. The

Board will recognize FLEX as a valid medical licensing examination subject to all requirements heretofore and hereinafter set forth.

2. Prior to January 24, 1985, the FLEX examination was divided into three components:

Day I--Basic Science

Day II--Clinical Science

Day III--Clinical Competence

In order to pass this examination, each applicant must have obtained a FLEX weighted average of 75 with Day I given a value of 1/6 of the entire examination, Day II given a value of 2/6, and Day III given a value of 3/6. The Board may make an exemption to the weighted average of 75 if the applicant has completed an approved residency program and is currently certified by a specialty board recognized by the ABMS or the AOA.

After January 24, 1985, the Board approved administration of a new FLEX examination with a different design from that administered since 1973. This examination was a three-day examination, and was comprised of two components. Component I consisted of one and one-half (1½) days and judged the readiness of a physician to practice medicine in a supervised setting. Component II consisted of one and one-half (1½) days and judged the readiness of a physician to practice independently. A score of 75 is considered a passing grade for each component.

3. An applicant had seven (7) years in which to pass both components of the FLEX.

B. USMLE

1. The USMLE is a three-step examination for medical licensure in the United States and is sponsored by the FSMB and NBME. The Board adopted the USMLE as an additional method of licensure by examination on September 16, 1993. The USMLE replaced FLEX and the NBME certification examinations during a phase-in period from 1992 to 1994. Unlike the three-day (two-component) FLEX, USMLE is a three-step examination that consists of three two-day examinations, Step 1, Step 2, and Step 3. Each step is complementary to the other; no step can stand alone in the assessment of readiness for medical licensure. The clinical skills examination is a separately administered component of Step 2 and is referred to as Step 2 Clinical Skills, or Step 2 CS. Unlike the FLEX, which was taken upon or after graduation from medical school most applicants will take Step 1 and 2 of the USMLE during their medical school years. Step 3 will be taken after graduation.
2. USMLE Steps 1, 2 and 3 must be passed within a seven-year time period beginning when the examinee passes his or her first Step. The Board, at its discretion, may waive this requirement based on extraordinary circumstances. The Board encourages all applicants to take Step 3 of the USMLE as soon as possible following receipt of the M.D. or D.O. degree.

C. NBME or NBOME

The Board recognizes diplomates of the NBME and on or after February 13, 1973, diplomates of the NBOME (COMLEX). Both examinations are administered in three (3) parts, Parts I, II and III and must be passed within a seven-year time period beginning when the examinee passes his or her first Part.

D. EXAM COMBINATIONS

Now that the FLEX and examinations administered by the NBME have been phased out, the Board will accept passing scores for the following combinations of the FLEX, NBME and USMLE examinations:

EXAMINATION SEQUENCE	ACCEPTABLE COMBINATIONS
NBME Part I <i>plus</i> NBME Part II <i>plus</i> NBME Part III	NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> NBME Part III or USMLE Step 3
FLEX Component I <i>plus</i> FLEX Component II	FLEX Component I <i>plus</i> USMLE Step 3 <i>or</i> NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> FLEX Component II
USMLE Step 1 <i>plus</i> USMLE Step 2 <i>plus</i> USMLE Step 3	

Amended September 13, 1997. Amended January 18, 2001. Amended February 18, 2003. Amended March 8, 2007. Amended May 17, 2007. Amended January 24, 2008. Amended July 1, 2009. Amended October 13, 2009. Amended March 19, 2015.

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

Part 2605 Chapter 2: Licensure Requirements for the Practice of Podiatrists

Rule 2.1 Licensure by Credentials. If the original license of an applicant was obtained by state board examination, the applicant must have the state board where original license was obtained by written examination submit a certified copy of the examination directly to the Board.

The Board may grant licenses to Diplomates of the NBPE. If a Diplomate of the NBPE, the applicant must have certification of endorsement from that Board submitted directly to the Board.

In addition to the above, an individual shall meet the following requirements:

- A. Applicant must be twenty-one (21) years of age, and of good moral character.

- B. Applicant must have had at least four (4) years high school and be graduate of same; he or she shall have at least one (1) year pre-podiatry college education.
- C. Present a diploma from a college of podiatric medicine recognized by the Board as being in good standing, subject to the following conditions.
 - 1. Any diploma or other document required to be submitted to the Board by an applicant which is not in the English language must be accompanied by a certified translation thereof into English.
 - 2. No college of podiatry or chiropody shall be accredited by the Board as a college of good standing which does not require for graduation a course of study of at least four (4) years (eight and one-half [8½] months each) and be accredited by the CPME at the time of graduation.
- D. Present proof of completion of one (1) year of APMA-approved postgraduate training in the U.S. or Canada. If the podiatrist graduated from an accredited college of podiatric medicine prior to 1990, has continuously practiced for the past ten (10) years and has held unrestricted license(s) to practice podiatry, the one (1) year of APMA-approved postgraduate training may be waived at the Board's discretion.
- E. Submit certified copy of birth certificate or valid passport.
- F. Complete an application for podiatry license and submit it to the Board in the manner prescribed by the Board with a recent passport type photograph.
- G. Submit fee prescribed by the Board.
- H. Appear for a personal interview in the office of the Board, submit for a criminal background check and successfully pass the Jurisprudence Examination as administered by the Board.

Amended March 8, 2007. Amended May 17, 2007. Amended January 24, 2008. Amended November 20, 2008.

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

Part 2605 Chapter 3: Temporary Licensure

Rule 3.1 Temporary Licensure.

- A. Mississippi temporary medical licenses may be issued to applicants for licensure in Mississippi under the following conditions:
 - 1. A restricted temporary medical license may be issued upon proper completion of an application for medical licensure by credentials to an applicant who otherwise meets all requirements for licensure except completion of the postgraduate training requirements provided in Part 2605, Chapter 1, Rule 1.1.A.3 and successful completion of Step 3 of USMLE as provided in Part 2605, Chapter 1, Rule 1.3.B.3. Such restricted temporary license shall entitle the physician to practice medicine only within the confines of an ACGME or AOA approved postgraduate training program in this state and may be renewed annually for the duration of the postgraduate training for a period not to exceed five (5) years.
 - 2. An unrestricted temporary medical license may be issued in an exceptional case to an applicant seeking licensure by credentials. Such an unrestricted temporary license shall remain valid only for a period of time sufficient for applicant to submit

required documents and credentials to complete an application for permanent licensure, but in no instance to exceed 30 days.

- B. The Board may issue a temporary license to practice medicine for a period not to exceed 90 days at a youth camp licensed by the State Department of Health to any nonresident physician who is not licensed to practice medicine in this state or to any resident physician who is retired from the active practice of medicine in this state while serving as a volunteer at such camp.
 - 1. Nonresident Physician
 - i. must have favorable references from two physicians with whom the applicant has worked or trained within the last year;
 - ii. must have written certification from the medical licensing authority in the state in which he or she holds a currently valid license to practice medicine; and
 - iii. must submit fee prescribed by the Board.
 - 2. Retired Resident Physician
 - i. must be in good standing with the Board, and
 - ii. must submit fee as prescribed by the Board.
- C. The Board may issue a temporary license to practice medicine to physicians who have been admitted for treatment in a drug and/or alcohol treatment program approved by the Board, or who are enrolled in the fellowship of addictionology in the Mississippi State Medical Association Professionals Health Program; provided that, a nonresident applicant shall hold a valid (unrestricted) license to practice medicine in another state and the medical licensing authority of that state shall certify to the Board in writing that such license is in good standing.
 - 1. A temporary license issued under this rule shall be valid for a period of ninety (90) days but may be renewed every ninety (90) days for the duration of the fellowship or treatment program. If the applicant discontinues treatment or leaves the fellowship program, the temporary license shall automatically become null and void. The Board may rescind or extend this temporary license for cause.
 - 2. A temporary license issued to a physician under this rule shall be limited to the outpatient phase of the treatment program or the time necessary to complete the fellowship of addictionology. The physician to whom the license is issued may administer treatment and care within the scope of the drug and/or alcohol treatment program or fellowship in an institutional setting and shall not otherwise practice in this state. A physician licensed under this rule shall not apply to the U.S. Drug Enforcement Administration for a controlled substances registration certificate and must be under the supervision of another physician holding a valid and unrestricted license in this state.
 - 3. A physician who has had his or her permanent license to practice in this state revoked or suspended by the Board due to habitual personal use of intoxicating liquors or narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, may be granted a temporary license pursuant to this rule provided the temporary license is not in conflict with the prior disciplinary order of the Board rendered against the physician.
 - 4. The applicant applying for a ninety (90) day temporary license to practice while in treatment in an approved drug and/or alcohol treatment program or while enrolled

in the fellowship of addictionology shall pay a fee prescribed by the Board (not to exceed \$50.00) to the Board. No additional fee shall be charged for an extension.

Mississippi temporary medical licenses are issued under the condition that the licensee shall not apply to the U.S. Drug Enforcement Administration for a Controlled Substances Registration Certificate.

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

Rule 3.2 Limited Institutional Licensure.

- A. Pursuant to Section 73-25-23, Mississippi Code, a limited institutional license is available only to graduates of foreign medical schools who are employed or are being considered for employment to practice medicine in one or more Mississippi state-supported institutions located in the same county.
- B. It is understood that graduates of foreign medical schools holding a limited institutional license, and who are employed by and enrolled in an approved ACGME or AOA postgraduate training program at the University of Mississippi Medical Center, shall be authorized to participate in any postgraduate educational program at the University of Mississippi Medical Center, or any of its affiliated training program sites.
- C. An application for limited institutional licensure may be accepted by the Board only upon the written request of the state-supported institution which has employed or is considering employing a graduate of a foreign medical school to practice medicine.
- D. A limited institutional license may be issued for a period of one (1) year for practice in a particular institution after a review and favorable recommendations by a majority of the following:
 - 1. President or Secretary, Board of Trustees of Institution
 - 2. Director of Institution
 - 3. President or Secretary, Local Chartered Medical Society in area in which institution is located
 - 4. Member, Board of Trustees, Mississippi State Medical Association in area in which institution is located
 - 5. Member, Mississippi State Board of Medical Licensure from district in which institution is located
 - 6. Executive Officer, Mississippi State Board of Medical Licensure
- E. In addition to the above requirements for a limited institutional license, an applicant shall meet the following requirements:
 - 1. Must be at least twenty-one (21) years of age and of good moral character.
 - 2. Must submit copy of diploma and certification of completion from a reputable medical college or reputable college of osteopathic medicine.
 - 3. Must submit certified copy of valid certificate from the ECFMG or its successor.
 - 4. Must submit an application completed in every detail with recent passport type photograph.
 - 5. Must submit fee prescribed by the Board.
 - 6. Must appear for a personal interview in the office of the Board, submit for a criminal background check and successfully pass the Jurisprudence Examination as administered by the Board.
- F. Pursuant to Section 73-25-23, Mississippi Code, a limited institutional license must be renewed annually, after such review as the Board considers necessary. The limited

institutional licenses of graduates of foreign medical schools so licensed and employed by a state institution on and after July 1, 1983, shall be renewable annually based upon the favorable recommendation of the director of the institution by which the licensee is employed. A graduate of a foreign medical school so licensed may hold such limited institutional license no longer than five (5) years.

- G. Since a limited institutional license is issued to a graduate of a foreign medical school for employment to practice medicine in a particular Mississippi state-supported institution, or institutions located in the same county, such limited institutional license shall become void immediately upon termination of employment of the licensee at the institution, or institutions, at which practice is authorized under the license.
- H. An annual renewal fee shall be prescribed by the Board.

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

Rule 3.3 Temporary Training License for Out-of-State Residents. An individual enrolled in an out-of-state postgraduate training program wishing to rotate through an ACGME or AOA approved training program within Mississippi, shall not be required to obtain a restricted temporary license provided the rotation lasts no longer than four (4) weeks. However, the individual must submit the following to the Board:

- A. A completed information form which has been supplied by the Board.
- B. A letter from the physician's postgraduate training program stating that he or she is going to be participating in a rotation in Mississippi and the duration.
- C. A letter from the training program in Mississippi stating the physician will be training with them and the duration.
- D. Verification of a current license (limited or training), permit, or letter from the state in which the individual is enrolled in a training program.
- E. A licensure fee in the amount of \$50.

The individual may not participate in the Mississippi training program until a valid training license has been issued. The license will be effective the date the individual is to begin the Mississippi rotation and will become null and void the day the individual completes the rotation.

If during the duration of the training, it is determined that the physician may stay longer than four (4) weeks, the temporary training license may be renewed for an additional four (4) weeks. Under no circumstances will the license be renewed after eight (8) weeks. An individual anticipating on rotating through a Mississippi training program for a period longer than eight (8) weeks shall be required to obtain a Restricted Temporary Medical License.

The Board reserves the right to deny issuance of a temporary training license as provided herein based on any of the statutory grounds as enumerated in Mississippi Code, Sections 73-25-29 and 73-25-83.

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

Rule 3.4 Short-Term Training for Out-of-State Physicians. The Board is aware that there are Mississippi physicians assisting out-of-state physicians in expanding professional knowledge and expertise by offering short-term training to the out-of-state physician. The Mississippi physician

wishing to offer this training to the unlicensed out-of-state physician(s) must have their short-term training program approved by the Board.

The Mississippi physician must submit a detailed letter stating the purpose of the short-term training program, the objectives of the course, approximately how long the course will last, and any supporting documentation that would assist the Board in determining the approval status of the program.

An individual wishing to attend the Board approved short-term training is not required to obtain a permanent Mississippi medical license; however, the individual must submit the following to the Board:

- A. A completed information form which has been supplied by the Board.
- B. A letter from the mentor of the Board approved training program stating that the applicant is going to be participating in the short-term training program and the duration.
- C. Verification of a current unrestricted permanent license from the state in which the individual is currently practicing.
- D. A permit fee in the amount of \$25.

The individual may not participate in the short-term training program until a valid training permit has been issued. The permit will be effective the date the individual is to begin the training and will become null and void the day the individual completes the training.

A short-term training permit is typically valid for two to three days; however, it can be issued up to fifteen (15) days. If during the duration of the training, it is determined that the physician may stay longer than fifteen (15) days, the temporary training permit may be renewed for an additional (15) days. Under no circumstances will the permit be renewed after thirty (30) days. An individual anticipating training for a period longer than thirty (30) days will be required to obtain a permanent Mississippi medical license.

Amended November 19, 1998. Amended March 8, 2007. Amended May 17, 2007. Amended July 12, 2007. Amended September 20, 2007.

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

Part 2605 Chapter 4: Expedited Licensure

Rule 4.1 Military Applicants.

- A. Pursuant to MS Code Ann. Section 73-50-1, the Board of Medical Licensure is authorized to issue an expedited license to a military-trained applicant to allow the applicant to lawfully practice medicine in Mississippi. In order to receive the expedited license, the following requirements must be satisfied:
 - 1. Complete an application for medical license and submit it to the Board in the manner prescribed by the Board with a recent passport type photograph.
 - 2. Submit documentation that applicant has been awarded a military occupational specialty.
 - 3. Submit documentation of completion of a military program of training.
 - 4. Submit verification of a completed licensing examination as described in Rule 2.3.

5. Have two references submit letters regarding applicant's performance in the practice of medicine.
 6. Submit verification that at least two of the past five years preceding the date of submission of the application applicant has engaged in the active practice of medicine.
 7. Submit certification that applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice medicine in Mississippi at the time the act was committed.
 8. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.
 9. Submit licensure fee prescribed by the Board.
- B. Pursuant to MS Code Ann. Section 73-50-1, the Board of Medical Licensure is authorized to issue a license to a military spouse to allow the military spouse to lawfully practice medicine in Mississippi. In order to receive the expedited license, the following requirements must be satisfied:
1. Complete an application for medical license and submit it to the Board in the manner prescribed by the Board with a recent passport type photograph.
 2. Submit certification of a current license from another jurisdiction, in which that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure of the Board.
 3. Submit verification that at least two of the past five years preceding the date of submission of the application applicant has engaged in the active practice of medicine.
 4. Submit certification that applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice medicine in Mississippi at the time the act was committed.
 5. Submit verification that applicant is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license.
 6. Submit licensure fee prescribed by the Board.
 7. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.
- C. All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in the practice of medicine as required under subsection A or B of this section.
- D. A nonresident licensed under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed by the Board.
- E. The Board may issue a temporary practice permit to a military-trained applicant or military spouse licensed in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection A or B of this section if that jurisdiction has licensure standards substantially equivalent to the standards for licensure of the Board. The military-trained applicant or military spouse may practice under the temporary permit until a license is granted or until a notice to

deny a license is issued in accordance with rules adopted by the Board.

Adopted July 10, 2014.

Source: Miss. Code Ann. §73-25-19 (1972, as amended).

Part 2605 Chapter 5: The Practice by Unlicensed Nonresident Physicians

Rule 5.1 Scope. This regulation shall apply to all individuals who practice or who seek to practice medicine or osteopathic medicine in the state of Mississippi pursuant to authority granted in Mississippi Code, Section 73-25-19.

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

Rule 5.2 Purpose. Pursuant to Mississippi Code, Section 73-25-19, non-resident physicians, not holding a license in the state of Mississippi, shall not be authorized to practice medicine in this state under any circumstances after remaining in the state for five (5) days, except when called in consultation by a licensed physician residing in this state. To implement its responsibility to protect the public, the Mississippi State Board of Medical Licensure shall monitor those non-resident physicians entering into this state to practice medicine pursuant to Section 73-25-19.

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

Rule 5.3 Notification to Board Required. Regardless of the number of days of anticipated practice, a non-resident physician not holding a license in the state of Mississippi shall not be authorized to practice medicine in this state under any circumstances, unless the following conditions have been satisfied:

The currently licensed Mississippi physician who needs consultation or assistance must notify the Board in writing of his or her request to have a non-resident physician practice in this state, setting forth (i) the identity of the non-resident unlicensed physician, (ii) a statement as to the purpose for the assistance/consultation, (iii) the location and address of the anticipated practice, and (iv) anticipated duration of practice.

Except in cases of emergencies, the above notification must be submitted to the Board at least seven (7) working days prior to the non-resident unlicensed physician entering into the state.

The non-resident unlicensed physician shall submit to the Board written proof of licensure status in good standing from another state or jurisdiction.

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

Rule 5.4 Intent. It is the intent and purpose of this regulation to encourage Mississippi licensed physicians to utilize the services of competent and well trained non-resident unlicensed physicians on an as needed basis. However, where it is anticipated that the services of the non-resident physicians will be utilized on a routine basis, that is, where the non-resident physicians

services will be utilized more than twice during any one year period of time, permanent licensure shall be required.

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

Rule 5.5 Exclusion. This regulation shall not apply to any non-resident physician who holds a temporary license to practice medicine at a youth camp issued under the provisions of Mississippi Code, Sections 75-74-8 and 73-25-17.

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

Rule 5.6 Effective Date of Regulation. The above rules pertaining to the practice by unlicensed nonresident physicians shall become effective August 22, 2002.

Amended October 19, 2002.

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

Part 2605 Chapter 6: Administrative Medical License

Rule 6.1 Definitions. For the purpose of Part 2601 Chapter 8, the following terms have the meanings indicated:

- A. “*Administrative Medical License*” means a license to engage in professional, managerial, or administrative activities related to the practice of medicine or to the delivery of health care services, but does not include nor permit the practice of clinical medicine or the right to engage in medical research including clinical trials on humans.
- B. “*Clinical Medicine*” means medical practice that includes but is not limited to:
 - 1. Direct involvement in patient evaluation, diagnosis, or treatment;
 - 2. Prescribing of any medication;
 - 3. Delegating medical acts or prescribing authority; or
 - 4. Supervision of physicians, physician assistants, or advanced practice registered nurses in the practice of clinical medicine.

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

Rule 6.2 Administrative Medical License. The Board may issue an administrative medical license to a physician who meets all qualifications for full licensure in the state, including payment of a fee set by the Board but who does not intend to provide medical or clinical services to or for patients while in possession of an administrative medical license and signs a notarized statement to that effect. An administrative medical license is subject to annual renewal.

In addition to the restrictions as noted in Rule 8.1 above, any person holding an administrative medical license shall be subject to all other provisions of the Medical Practice Law, Sections 73-25-1, et. seq., and the Administrative Code of the Board, where deemed applicable.

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

Adopted March 19, 2015; and Amended May 26, 2015.

Part 2610: Renewal and Reinstatement

Part 2610 Chapter 1: Change of Address

Rule 1.1 Change of Address. Any physician who is licensed to practice medicine in this state and changes his or her practice location or mailing address shall immediately notify the Board in writing of the change. Failure to notify within thirty (30) days could result in disciplinary action.

The Board routinely sends information to licensed physicians. 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.

Amended May 17, 2007; and Amended July 10, 2014.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Part 2610 Chapter 2: CME Requirements

Rule 2.1 Basic Requirement. Every Mississippi licensee must earn or receive not less than forty (40) hours of Category 1 continuing medical education in a two-year cycle as a condition precedent to renewing his or her license for the next fiscal year. For every Mississippi licensee with an active DEA certificate, five hours must be related to the prescribing of medications with an emphasis on controlled substances. 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, 2000, and every two years thereafter.*

- A. Category 1 continuing medical education shall mean those programs of continuing medical education designated as Category 1 which are sponsored or conducted by those organizations approved by the Mississippi State Medical Association, American Medical Association or by the Accreditation Council for Continuing Medical Education (ACCME) to sponsor or conduct Category 1 continuing medical education programs.
- B. Programs of continuing medical education designated as Category 1-A which are sponsored or conducted by organizations or entities accredited by the American Osteopathic Association to sponsor or conduct Category 1-A continuing medical education for osteopathic physicians.
- C. Programs of continuing medical education designated as a "prescribed hour" which are sponsored or conducted by organizations or entities accredited by the American Academy of Family Physicians to sponsor or conduct "prescribed hours" of continuing medical education.
- D. Programs of continuing medical education designated as "cognates" which are sponsored or conducted by organizations or entities which are accredited by the

American College of Obstetrics and Gynecology to sponsor or conduct approved cognates on obstetrical and gynecological related subjects.

- E. Programs of continuing medical education designated as Category 1-A which are sponsored or conducted by organizations or entities accredited by the Council on Podiatric Medical Education to sponsor or conduct Category 1-A continuing medical education for podiatrists.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.2 Persons Affected. Every Mississippi licensee is required to comply with the minimum requirement for continuing medical education established by these rules.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.3 Exemption for Initial Licenses. Physicians receiving their initial license to practice medicine in Mississippi after June 30, or receiving their initial board certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association after June 30, are exempt from the minimum continuing medical education requirement for the two-year period following their receiving a license or board certification. The forty (40) hour continuing education certification will be due within the next two-year cycle.

- A. July 1, 2000 through June 30, 2002 (1st cycle)
- B. July 1, 2002 through June 30, 2004 (2nd cycle)
- C. July 1, 2004 through June 30, 2006 (3rd cycle)
- D. July 1, 2006 through June 30, 2008 (4th cycle)

For instance, a physician receiving an initial license August 3, 2001, will not have to complete forty (40) hours of CME until July 1, 2002, through June 30, 2004. All CME's must be acquired within the two-year cycle.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.4 Effective Date. The first time for reporting continuing medical education activity will be the renewal period for the fiscal year beginning July 1, 2002, when reporting on continuing medical education work earned during the two-year period of July 1, 2000, to June 30, 2002.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.5 Record Keeping Requirement. Every licensee shall maintain records of attendance or certificates of completion demonstrating compliance with the minimum continuing medical education requirement. Documentation adequate to demonstrate compliance with the minimum continuing medical education requirements of this regulation shall consist of certificates of attendance, completion certificates, proof of registration, or similar documentation issued by the organization or entity sponsoring or conducting the continuing medical education program. These records must be maintained by the physician for a period of three (3) years following the year in which the continuing medical education credits were earned and are subject to examination by representatives of the State Board of Medical Licensure upon request. If a

physician is on a hospital medical staff, it is recommended these certificates and hours be recorded with the primary hospital medical staff records.

With his or her annual renewal application, every licensee must certify the completion of the minimum continuing medical education requirement established under these rules. Failure to maintain records documenting that a physician has met the minimum continuing medical education requirement, and/or failure to provide such records upon request to the Mississippi State Board of Medical Licensure, is hereby declared to be unprofessional conduct and may constitute grounds, within the discretion of the Mississippi State Board of Medical Licensure, for the suspension of the physician's license to practice medicine.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.6 Annual Renewal. As a condition for annual renewal of license, beginning with the fiscal year July 1, 2002, through June 30, 2003, every physician will be required to biennially certify on his or her annual renewal form that he or she has earned the required 40 hours of approved Category 1 continuing medical education requirement. The Board will randomly select physicians to ensure complete compliance with this requirement. If deficiencies are identified, licensee must complete deficiencies within six (6) months of date of notification. Failure to comply may result in the suspension of licensee's license.

Any physician practicing during the time of a suspended license shall be considered an illegal practitioner and shall be subject to penalties provided for violation of the Medical Practice Act, and for costs incurred in the enforcement of this regulation.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.7 Waiver. A physician who is unable to meet the minimum continuing medical education requirement for legitimate cause may apply to the Mississippi State Board of Medical Licensure for a waiver of the requirement prior to April 1 of the last year of the two-year cycle. Such waiver may be granted or denied within the sole discretion of the Mississippi State Board of Medical Licensure.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.8 Compliance Review. It shall be the responsibility of the Mississippi State Board of Medical Licensure to enforce the provisions of this regulation by review of the records maintained by physicians subject to this rule which demonstrate compliance with the program for continuing medical education. This compliance review may be conducted by the Board by random or designated sample, by mail or in person, or otherwise at the discretion of the Board. Non-compliance may result in the suspension of the physician's license to practice medicine under the Medical Practice Act.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Rule 2.9 Effective Date of Regulation. The above rules pertaining to continuing medical education shall become effective February 16, 2000.

Amended May 17, 2007; Amended January 24, 2008; Amended November 15, 2012; and Amended May 16, 2013.

Source: Miss. Code Ann. §73-25-14 (1972, as amended).

Part 2615 Physician Assistants

Part 2615 Chapter 1: The Practice of Physician Assistants

Rule 1.1 Scope. The following rules pertain to physician assistants practicing medicine with physician supervision. Physician assistants may perform those duties and responsibilities, including diagnosing and the ordering, prescribing, dispensing of prepackaged drugs, and administration of drugs and medical devices as delegated by their supervising physician(s).

Physician assistants may provide any medical service which is delegated by the supervising physician when the service is within the physician assistant's training and skills; forms a component of the physician's scope of practice; and is provided with supervision.

Physician assistants shall be considered the agents of their supervising physicians in the performance of all practice-related activities including, but not limited to, the ordering of diagnostic, therapeutic, and other medical services.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.2 Definitions. For the purpose of Part 2615, Chapter 1 only, the following terms have the meanings indicated:

- A. "Board" means the Mississippi State Board of Medical Licensure.
- B. "Physician Assistant" means a person who meets the Board's criteria for licensure as a physician assistant and is licensed as a physician assistant by the Board.
- C. "Supervising Physician" means a doctor of medicine or a doctor of osteopathic medicine who holds an unrestricted license from the Board, who is in the full-time practice of medicine, and who has been approved by the Board to supervise physician assistants.
- D. "Supervise" or "Supervision" means overseeing and accepting responsibility for the medical services rendered by a physician assistant.
- E. "Primary Office" means the usual practice location of a physician and being the same location reported by that physician to the Mississippi State Board of Medical Licensure and the United States Drug Enforcement Administration.
- F. "NCCPA" means the National Commission on Certification of Physician Assistants.
- G. "PANCE" means the Physician Assistant National Certifying Examination.
- H. "CAAHEP" means the Commission on Accreditation of Allied Health Education Programs.
- I. "Predecessor or Successor Agency" refers to the agency responsible for accreditation of educational programs for physician assistants that preceded CAAHEP or the agency responsible for accreditation of educational programs for physician assistants that succeeded CAAHEP.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.3 Qualifications for Licensure.

- A. Pursuant to Section 73-43-11, Mississippi Code, all physician assistants who are employed as physician assistants by a Department of Veterans Affairs health care facility, a branch of the United States military, or the Federal Bureau of Prisons and who are

practicing as physician assistants in a federal facility in Mississippi on July 1, 2000, and those physician assistants who trained in a Mississippi physician assistant program and have been continuously practicing as a physician assistant in Mississippi since 1976, shall be eligible for licensure if they submit an application for licensure to the Board by December 31, 2000, and meet the following additional requirements:

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. 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.
3. Pay the appropriate fee as determined by the Board.
4. Present a certified copy of birth certificate.
5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
6. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a physician assistant.
7. Provide favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
8. No basis or grounds exist for the denial of licensure as provided in Part 2615, Rule 1.15.

Physician assistants licensed under this rule will be eligible for license renewal so long as they meet standard renewal requirements.

- B. Before December 31, 2004, applicants for physician assistant licensure, except those licensed pursuant to the paragraph above, must be graduates of physician assistant educational programs accredited by the Commission on Accreditation of Allied Health Educational Programs or its predecessor or successor agency, have passed the certification examination administered by the National Commission on Certification of Physician Assistants (NCCPA), have current NCCPA certification, and possess a minimum of a baccalaureate degree, and meet the following additional requirements:

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. 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.
3. Pay the appropriate fee as determined by the Board.
4. Present a certified copy of birth certificate.
5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
6. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a physician assistant.
7. Provide favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
8. No basis or grounds exist for the denial of licensure as provided in Rule 1.15.

Physician assistants meeting these licensure requirements will be eligible for license renewal so long as they meet standard renewal requirements.

- C. On or after December 31, 2004, applicants for physician assistant licensure must meet the following requirements:
1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
 2. Complete an application for license and submit same to the Board in the manner prescribed by the Board with a recent passport type photograph.
 3. Pay the appropriate fee as determined by the Board.
 4. Present a certified copy of birth certificate or valid passport.
 5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage license or other legal proceeding).
 6. Possess a master's degree in a health-related or science field.
 7. Successfully complete an educational program for physician assistants accredited by CAAHEP or its predecessor or successor agency.
 8. Pass the certification examination administered by the NCCPA and have current NCCPA certification.
 9. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a physician assistant.
 10. Provide favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
 11. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and pass the Jurisprudence Examination as administered by the Board.
 12. No basis or grounds exist for the denial of licensure as provided in Part 2615, Rule 1.15.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.4 Temporary License. The Board may grant a temporary license to an applicant who meets the qualifications for licensure except that the applicant has not yet taken the national certifying examination administered by the NCCPA or the applicant has taken the national certifying examination and is awaiting the results or the applicant has not obtained a minimum of a master's degree in a health-related or science field.

A temporary license issued upon the basis of the NCCPA not being taken or the applicant awaiting the results is valid:

- A. for one hundred eighty (180) days from the date of issuance;
- B. until the results of an applicant's examination are available; or
- C. until the Board makes a final decision on the applicant's request for licensure, whichever comes first.

The Board may extend a temporary license, upon a majority vote of the Board members, for a period not to exceed one hundred eighty (180) days. Under no circumstances may the Board grant more than one extension of a temporary license.

A temporary license may be issued to an applicant who has not obtained a master's degree so long as the applicant can show proof of enrollment in a master's program that will, when completed, meet the master's degree requirement. The temporary license will be valid no longer than one (1) year, and may not be renewed.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.5 Requirement of Protocol - Prescribing/Dispensing. Physician assistants shall practice according to a Board-approved protocol which has been mutually agreed upon by the physician assistant and the supervising physician. Each protocol shall be prepared taking into consideration the specialty of the supervising physician, and must outline diagnostic and therapeutic procedures and categories of pharmacologic agents which may be ordered, administered, dispensed and/or prescribed for patients with diagnoses identified by the physician assistant. Each protocol shall contain a detailed description of back-up coverage if the supervising physician is away from the primary office. Although licensed, no physician assistant shall practice until a duly executed protocol has been approved by the Board.

Except as hereinafter provided in below, physician assistants may not write prescriptions for or dispense controlled substances or any other drug having addiction-forming or addiction-sustaining liability. A physician assistant may, however, administer such medications pursuant to an order by the supervising physician if in the protocol.

Prescribing Controlled Substances and Medications by Physician Assistants

A. Scope

Pursuant to these rules, authorized physician assistants may prescribe controlled substances in Schedules II through V.

B. Application for Authority to Prescribe Controlled Substances

1. Physician assistant applicants applying for controlled substance prescriptive authority must complete a Board approved educational program prior to making application.
2. In order to obtain the authority to prescribe controlled substances in any schedule, the physician assistant shall submit an application approved by the Board.

C. Incorporation of Physician Rules Pertaining to Prescribing, Administering and Dispensing of Medication

For the purpose of directing the manner in which physician assistants may prescribe controlled substances, the Board incorporates Administrative Code Part 2640, Chapter 1 *Pertaining to Prescribing, Administering and Dispensing of Medication* as applied to physicians, including but not limited to all Definitions, Maintenance of Records and Inventories, Use of Diet Medication, Use of Controlled Substances for Chronic (Non-Terminal) Pain, and Prescription Guidelines. All physician assistants authorized to prescribe controlled substances shall fully comply with these rules.

D. Registration for Controlled Substances Certificate Prescriptive Authority

1. Every physician assistant authorized to practice in Mississippi who prescribes any controlled substance must be registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
2. Pursuant to authority granted in Mississippi Code, Section 41-29-125, the Board hereby adopts, in lieu of a separate registration with the Board, the registration with the U.S. Drug Enforcement Administration as required in Part 2615, Rule 1.5.D.1, provided, however, where a physician assistant already possesses a controlled substances registration certificate for a practice location in another state or jurisdiction, the physician assistant may not transfer or otherwise use the same registration until he or she meets the training requirements set forth in Part 2615,

Rule 1.5.B.1. In the event, however, a physician assistant has had limitations or other restrictions placed upon his or her license wherein he or she is prohibited from handling controlled substances in any or all schedules, said physician assistant shall be prohibited from registering with the U. S. Drug Enforcement Administration for a Uniform Controlled Substances Registration Certificate without first being expressly authorized to do so by order of the Board.

3. The registration requirement set forth in these rules does not apply to the distribution and manufacture of controlled substances. Any physician who engages in the manufacture or distribution of controlled substances or legend drugs shall register with the Mississippi State Board of Pharmacy pursuant to Mississippi Code, Section 73-21-105. For the purposes herein, "distribute" shall mean the delivery of a drug other than by administering, prescribing, or dispensing. The word "manufacture" shall have the same meaning as set forth in Mississippi Code, Section 73-21-105(q).

E. Drug Maintenance, Labeling and Distribution Requirements

Persons registered to prescribe controlled substances may order, possess, prescribe, administer, distribute or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of these rules and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et. seq., except physician assistants may not receive samples of controlled substances. A physician assistant may receive and distribute pre-packaged medications or samples of non-controlled substances for which the physician assistant has prescriptive authority.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.6 Supervision. Before any physician shall supervise a physician assistant, the physician must first (a) present to the Board's Executive Director a duly executed protocol, (b) appear personally before the Board or its Executive Director, and (c) obtain written approval to act as a supervising physician. The facts and matters to be considered by the Board when approving or disapproving a protocol or supervision arrangement shall include, but are not limited to, how the supervising physician and physician assistant plan to implement the protocol, the method and manner of supervision, consultation, referral and liability.

Where two or more physicians anticipate executing a protocol to supervise a physician assistant, it shall not be necessary that all of the physicians personally appear before the Board or Executive Director as required in Part 2615, Rule 1.6. In this situation, the physician who will bear the primary responsibility for the supervision of the physician assistant shall make the required personal appearance.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.7 Supervising Physician Limited. No physician shall be authorized to supervise a physician assistant unless that physician holds an unrestricted license to practice medicine in the state of Mississippi.

Supervision means overseeing activities of, and accepting responsibility for, all medical services rendered by the physician assistant. Except as described in the following paragraph, supervision

must be continuous, but shall not be construed as necessarily requiring the physical presence of the supervising physician.

New graduate physician assistants and all physician assistants newly practicing in Mississippi, except those licensed under Part 2615, Rule 1.3, require the on-site presence of a supervising physician for one hundred twenty (120) days.

The physician assistant's practice shall be confined to the primary office or clinic of the supervising physician or any hospital(s) or clinic or other health care facility within the same community where the primary office is located, wherein the supervising physician holds medical staff privileges. Exceptions to this requirement may be granted on an individual basis, provided the location(s) of practice are set forth in the protocol.

The supervising physician must provide adequate means for communication with the physician assistant. Communication may occur through the use of technology which may include, but is not limited to, radio, telephone, fax, modem, or other telecommunication device.

The supervising physician shall, on at least a monthly basis, conduct a review of the records/charts of at least ten percent (10%) of the patients treated by the physician assistant, said records/charts selected on a random basis. During said review, the supervising physician shall note the medical and family histories taken, results of any and all examinations and tests, all diagnoses, orders given, medications prescribed, and treatments rendered. The review shall be evidenced by the supervising physician placing his or her signature or initials at the base of the clinic note, either electronically or by hand, and shall submit proof of said review to the Board upon request.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.8 Number of Physician Assistants Supervised. No physician shall supervise more than two (2) physician assistants at any one time. A physician supervising two (2) nurse practitioners may not supervise a physician assistant.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.9 Termination. The physician assistant and supervising physician shall notify the Board in writing immediately upon the physician assistant's termination; physician retirement; withdrawal from active practice; or any other change in employment, functions or activities. Failure to notify can result in disciplinary action.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.10 Duty to Notify Board of Change of Address. Any physician assistant who is licensed to practice as a physician assistant in this state and changes his or her 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 physician assistants. 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. §73-26-5 (1972, as amended).

Rule 1.11 Continuing Education. Each licensed physician assistant must show proof of completing 50 hours of CME each year, 20 hours of which must be Category 1, as defined by the Accreditation Council for Continuing Medical Education (ACCME). Physician assistants who are certified by the NCCPA may meet this requirement by providing evidence of current NCCPA certification.

All physician assistants authorized to prescribe controlled substances must show proof of completing 50 hours of CME each year, 20 hours of which must be Category 1, as defined by the ACCME, and 10 hours of which must be related to the prescribing of medications with an emphasis on controlled substances.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.12 Identification. The supervising physician shall be responsible to ensure that any physician assistant under his or her supervision does not advertise or otherwise hold himself or herself out in any manner which would tend to mislead the general public or patients. Physician assistants shall at all times when on duty wear a name tag, placard or plate identifying themselves as physician assistants.

Physician assistants may not advertise in any manner which implies that the physician assistant is an independent practitioner.

A person not licensed as a physician assistant by the Board who holds himself or herself out as a physician assistant is subject to the penalties applicable to the unlicensed practice of medicine.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.13 Physician Liability. Prior to the supervision of a physician assistant, the physician's and/or physician assistant's insurance carrier must forward to the Board a Certificate of Insurance.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.14 Renewal Schedule. The license of every person licensed to practice as a physician assistant in the state of Mississippi shall be renewed annually.

On or before May 1 of each year, the State Board of Medical Licensure shall mail a notice of renewal of license to every physician assistant to whom a license was issued or renewed during the current licensing year. 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 documentation of completing each year 50 hours of CME and the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all physician assistants 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 certificate of

renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year.

A physician assistant practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in Part 2615, Rule 1.14 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, and shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.

Any physician assistant not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in Part 2615, Rule 1.14 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 arrearage for the previous five (5) years and the renewal fee for the current year.

Any physician assistant who allows his or her license to lapse shall be notified by the Board within thirty (30) days of such lapse.

Any person practicing as a physician assistant during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the same penalties as provided in Mississippi Code, Section 73-25-14.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.15 Disciplinary Proceedings.

A. Grounds for Disciplinary Action Against Physician Assistants

For the purpose of conducting disciplinary actions against individuals licensed to practice as physician assistants, the Board hereby incorporates those grounds for the non-issuance, suspension, revocation, or restriction of a license or the denial of reinstatement or renewal of a license, as set forth in Mississippi Code, Sections 73-25-29 and 73-25-83. As a basis for denial, suspension, revocation or other restriction, the Board may initiate disciplinary proceedings based upon any one or more of those grounds as set forth in Sections 73-25-29 and 73-25-83, and may make provision for the assessment of costs as provided therein.

B. Hearing Procedure and Appeals

1. No individual shall be denied a license or have his or her license suspended, revoked or restriction placed thereon, unless the individual licensed as a physician assistant 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, osteopathic medicine, and podiatric medicine in the state of Mississippi.

C. Reinstatement of License

1. A person whose license to practice as a physician assistant has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate his or her 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 osteopaths 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, his or her activity during the time his or her certificate was in good standing, his or her general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Rule 1.16 Impaired Physician Assistants. For the purpose of the Mississippi Disabled Physician Law, Mississippi Code, Sections 73-25-51 to 73-25-67, any individual licensed to practice as a physician assistant, 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
- 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 a physician assistant is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the physician assistant 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. §73-26-5 (1972, as amended).

Rule 1.17 Effective Date of Rules. The above rules pertaining to the practice of physician assistants shall become effective September 1, 2000; as amended September 16, 2004; as

amended May 19, 2005; as amended March 8, 2007; as amended May 17, 2007; as amended July 10, 2008; as amended May 18, 2012; and as amended July 10, 2014.

Source: Miss. Code Ann. §73-26-5 (1972, as amended).

Part 2620 Radiologist Assistants

Part 2620 Chapter 1: The Practice of Radiologist Assistants

Rule 1.1 Scope. The following rules pertain to radiologist assistants performing any x-ray procedure or operating any x-ray equipment in a physician's office, hospital or clinical setting.

The radiologist assistant shall evaluate the day's schedule of procedures with the supervising radiologist and determine where the radiologist assistant's skills will be best utilized.

After demonstrating competency, the radiologist assistant when ordered to do so by the supervising radiologist may:

- A. Perform selected procedures under the direct supervision of a radiologist including static and dynamic fluoroscopic procedures.
- B. Assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures.
- C. Evaluate image quality, make initial image observations and communicate observations of image quality to the supervising radiologist.
- D. Administer intravenous contrast media or other prescribed medications.

The radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.

The radiologist assistant shall adhere to the Code of Ethics of the American Registry of Radiologic Technologists and to national, institutional and/or departmental standards, policies and procedures regarding the standards of care for patients.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.2 Definitions. For the purpose of Part 2620, Chapter 1 only, the following terms have the meanings indicated:

- A. A.R.R.T. - American Registry of Radiologic Technologists.
- B. Full Certification - Certification obtained by submitting certification issued by the A.R.R.T.
- C. Radiologist - A physician licensed by the Mississippi State Board of Medical Licensure who is certified or eligible to be certified by the American Board of Radiology or the American Osteopathic Board of Radiology.
- D. Radiologist Assistant Certification - Certification obtained by submitting proof of A.R.R.T. certification as a radiologist assistant which will enable the holder to perform any and all radiologist assistant procedures or functions as defined in Part 2620, Rule 1.3 in a radiology practice or radiologist's office.
- E. Direct Supervision - The radiologist must be present in the office suite and immediately available to furnish assistance and direction throughout the performance of all procedures. Direct supervision does not mean that the supervising radiologist must be present in the room when the procedure is performed.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.3 Qualifications for Licensure. Applicants for radiologist assistant licensure must be graduates of a radiologist assistant education program accredited by the American Registry of Radiologic Technologists or graduates of an RPA school holding an RA certification from the A.R.R.T., must have passed the radiologist assistant examination provided by the A.R.R.T., must have current and unencumbered registration as a radiologic technologist with the Mississippi State Department of Health, must have current certification in advanced cardiac life support (ACLS), and must meet the following additional requirements:

- A. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
- B. Submit an application for license on a form supplied by the Board, completed in every detail with a recent passport type photograph.
- C. Pay the appropriate fee as determined by the Board.
- D. Present a certified copy of birth certificate or valid passport.
- E. Submit proof of legal change of name if applicable (notarized or certified copy of marriage license or other legal proceeding).
- F. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a radiologist assistant.
- G. Must have favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
- H. No basis or grounds exist for the denial of licensure as provided at Part 2620, Rule 1.12.

Radiologist assistants meeting these licensure requirements will be eligible for license renewal so long as they meet standard renewal requirements.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.4 Supervision. Before any radiologist shall supervise a radiologist assistant, the radiologist must first (a) present to the Board's Executive Director a duly executed protocol, (b) appear personally before the Board or its Executive Director, and (c) obtain written approval to act as a supervising radiologist. The facts and matters to be considered by the Board when approving or disapproving a protocol or supervision arrangement shall include, but are not limited to, how the supervising radiologist and radiologist assistant plan to implement the protocol, the method and manner of supervision, consultation, referral and liability.

Where two or more radiologists anticipate executing a protocol to supervise a radiologist assistant, it shall not be necessary that all of the radiologists personally appear before the Board or Executive Director as required in the paragraph above. In this situation, the radiologist who will bear the primary responsibility for the supervision of the radiologist assistant shall make the required personal appearance.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.5 Supervising Physician Limited. No radiologist shall be authorized to supervise a radiologist assistant unless that radiologist holds an unrestricted license to practice medicine in the state of Mississippi.

The employing radiologist(s) shall exercise supervision and assume full control and responsibility for the services provided by any person practicing as a radiologist assistant employed in the radiologist's practice. Any services being provided by a radiologist assistant must be performed at either the physical location of the radiologist's primary medical practice or any healthcare facility where the supervising radiologist holds staff privileges.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.6 Termination. The radiologist assistant and supervising radiologist shall notify the Board in writing immediately upon the radiologist assistant's termination; radiologist retirement; withdrawal from active practice; or any other change in employment, functions or activities. Failure to notify can result in disciplinary action.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.7 Duty to Notify Board of Change of Address. Any radiologist assistant who is licensed or receives a license to practice as a radiologist assistant in this state and thereafter changes his or her practice location or mailing address from what was noted in the application upon which he or she received a license, 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 radiologist assistants. 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. §41-58-7 (1972, as amended).

Rule 1.8 Continuing Education. Biennially attend and complete at least twenty-four (24) hours of radiological related continuing education courses sponsored or approved by any of the following organizations:

- A. Mississippi Society of Radiologic Technologists
- B. Mississippi Radiological Society
- C. Mississippi Medical Association or Mississippi Osteopathic Medical Association
- D. American Medical Association or American Osteopathic Association
- E. American Society of Radiologic Technologists
- F. American Registry of Radiologic Technologists
- G. American College of Radiology or American Osteopathic College of Radiology

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.9 Identification. The supervising physician shall be responsible to ensure that any radiologist assistant under his or her supervision does not advertise or otherwise hold himself or herself out in any manner which would tend to mislead the general public or patients.

Radiologist assistants shall at all times when on duty wear a name tag, placard or plate identifying themselves as radiologist assistants.

Radiologist assistants may not advertise in any manner which implies that the radiologist assistant is an independent practitioner.

A person not licensed as a radiologist assistant by the Board who holds himself or herself out as a radiologist assistant is subject to the penalties applicable to the unlicensed practice of medicine.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.10 Physician Liability. Prior to the supervision of a radiologist assistant, the physician~~s~~ and/or radiologist assistant~~s~~ insurance carrier must forward to the Board a Certificate of Insurance.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.11 Renewal Schedule. The license of every person licensed to practice as a radiologist assistant in the state of Mississippi shall be renewed annually.

On or before May 1 of each year, the State Board of Medical Licensure shall mail a notice of renewal of license to every radiologist assistant to whom a license was issued or renewed during the current licensing year. 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 radiologist assistants 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 certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. Such renewal shall render the holder thereof a licensed radiologist assistant as stated on the renewal form.

A radiologist assistant practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in this rule 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, and shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.

Any radiologist assistant not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in this rule 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 arrearage for the previous five (5) years and the renewal fee for the current year.

Any radiologist assistant who allows his or her license to lapse shall be notified by the Board within thirty (30) days of such lapse.

Any person practicing as a radiologist assistant during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the same penalties as provided at Mississippi Code, Section 73-25-14.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.12 Disciplinary Proceedings.

A. Grounds for Disciplinary Action Against Radiologist Assistants

For the purpose of conducting disciplinary actions against individuals licensed to practice as radiologist assistants, the Board hereby incorporates those grounds for the non-issuance, suspension, revocation, or restriction of a license or the denial of reinstatement or renewal of a license, as set forth in Mississippi Code, Sections 73-25-29 and 73-25-83. As a basis for denial, suspension, revocation or other restriction, the Board may initiate disciplinary proceedings based upon any one or more of those grounds as set forth in Sections 73-25-29 and 73-25-83, and may make provision for the assessment of costs as provided therein.

B. Hearing Procedure and Appeals

No individual shall be denied a license or have his or her license suspended, revoked or restriction placed thereon, unless the individual licensed as a radiologist assistant 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, osteopathic medicine, and podiatric medicine in the state of Mississippi.

C. Reinstatement of License

1. A person whose license to practice as a radiologist assistant has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate his or her license after a period of not less than 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 osteopaths 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, his or her activity during the time his or her certificate was in good standing, his or her general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Rule 1.13 Impaired Radiologist Assistants. For the purpose of the Mississippi Disabled Physician Law, Mississippi Code, Sections 73-25-51 to 73-25-67, any individual licensed to practice as a radiologist assistant 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
- 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 a radiologist assistant is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the radiologist assistant 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. §41-58-7 (1972, as amended).

Rule 1.14 Effective Date of Rules. The above rules pertaining to the practice of radiologist assistants shall become effective upon adoption.

Adopted November 16, 2005; amended July 20, 2006; amended November 8, 2007; amended July 10, 2008; and amended July 10, 2014.

Source: Miss. Code Ann. §41-58-7 (1972, as amended).

Part 2621 Limited X-Ray Machine Operator

Part 2621 Chapter 1: Limited X-Ray Machine Operator

Rule 1.1 Scope. Pursuant to Mississippi Code §41-58-3, an individual who applies ionizing radiation in a physician's office, radiology clinic or a licensed hospital in Mississippi under the specific direction of a licensed practitioner shall be permitted as a limited x-ray machine operator by the Board.

Source: Miss. Code Ann. §73-25-19 (1972, as amended).

Rule 1.2 Definitions.

- A. “Licensed Practitioner” means a person licensed or otherwise authorized by law to practice medicine, osteopathy or podiatry, or a licensed physician assistant.
- B. “Limited X-Ray Machine Operator” means a person who is issued a permit by the State Board of Medical Licensure to perform medical radiation technology limited to specific radiographic procedures on certain parts of the human anatomy, specifically the chest, abdomen and skeletal structures.

Source: Miss. Code Ann. §73-25-19 (1972, as amended).

Rule 1.3 Limitations. Limited x-ray machine operators may not perform fluoroscopy, both stationary and mobile (C-arm); contrast studies; computed tomography; nuclear medicine; radiation therapy studies; and mammography.

Source: Miss. Code Ann. §73-25-19 (1972, as amended).

Rule 1.4 Requirements. Each limited x-ray-machine operator who is employed to apply ionizing radiation in the state of Mississippi shall:

- A. Submit a completed information form which has been supplied by the Board, completed in every detail.
- B. Submit proof of completion of twelve hours of Board-approved education in radiologic technology, with six of those hours specifically in radiation protection.
- C. Pay the appropriate fee as determined by the Board.

Source: Miss. Code Ann. §73-25-19 (1972, as amended).

Rule 1.5 Renewal. Each limited x-ray machine operator permit will expire June 30 two years after the date the permit is issued. During the two year period in which the limited x-ray machine operator holds a current permit, additional continuing educational hours must be obtained for renewal. In order to renew, each limited x-ray machine operator shall submit biennially:

- A. an application for permit renewal on a form supplied by the Board, completed in every detail;
- B. evidence of completing twelve hours of board-approved continuing education with six hours in radiation protection; and
- C. a renewal fee as prescribed by the Board.

Source: Miss. Code Ann. §73-25-19 (1972, as amended).

Adopted September 19, 2013.

Part 2625 Acupuncturist

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.

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 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 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 (CNTPT), 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. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure, pass the Jurisprudence Examination as administered by the Board and submit for a criminal background check.

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

Rule 1.4 Practice Standards. Before treatment of a patient the acupuncturist shall be sure that the patient has been examined and referred by a licensed physician 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 from the patient's licensed physician.

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 national centers for disease control and prevention.

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 that they treat. The record shall include:

- A. Name and address of the patient and other appropriate identifying information
- B. Written referral from physician
- C. The acupuncturist's evaluation of the patient including patient history examination and diagnosis
- D. Informed consent
- E. Documentation of treatment including points treated
- F. Evidence of instructions given to patient

Patient records must be maintained for a period of seven (7) years from the date of last treatment.

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 perform a medical diagnostic examination of the patient or review the results of a medical diagnostic examination recently performed by another physician.

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 1.8 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 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
 4. National Certification Commission for Acupuncture and Oriental Medicine
 5. American Acupuncture Council
- 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.
 - 4.

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

Rule 1.10 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.

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 1.11 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 their 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 their license to lapse shall be notified by the Board within thirty (30) days of such lapse.

Any acupuncturist who fails to renew their 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 their 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 1.12 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 1.13 Disciplinary Proceedings.

A. Hearing Procedure and Appeals

No individual shall be denied a license or have their 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 1.14 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 1.15 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 1.16 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" unless the advertising also discloses the complete name of the board which conferred the referenced certification.
- C. Use the terms "board certified" or any similar words or phrases calculated to convey the same meaning if the advertised board 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 1.17 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 1.18 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.

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

Part 2630 Collaboration

Part 2630 Chapter 1: Collaboration with Nurse Practitioners

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine or osteopathic 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 2630, Chapter 1 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 who holds an unrestricted license or whose practice or prescriptive authority is not limited as a result of voluntary surrender or legal/regulatory order.
- B. “Free Standing Clinic” means a clinic or other facility wherein patients are treated by a nurse practitioner, which is more than fifteen (15) miles away from the primary office of the collaborative/consultative physician. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics and volunteer clinics.
- C. “Primary Office” means the usual practice location of a physician and being the same location reported by that physician to the Mississippi State Board of Medical Licensure and the United States Drug Enforcement Administration.
- D. “Collaborating/Consulting Physician” means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.
- E. “Nurse Practitioner” means any person 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.
- F. “Advanced Practice Registered Nurse” includes all nurse practitioners, certified nurse midwives and certified registered nurse anesthetists.

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

Rule 1.3 Board Review. Physicians who wish to collaborate/consult with a nurse practitioner who plans or anticipates practicing in a free standing clinic, must first (a) appear personally or by telephone before the Mississippi State Board of Medical Licensure and/or the Joint Committee of the 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 protocol, and (c) obtain approval from the Board to act as a collaborating/consulting physician. The facts and matters to be considered by the Board shall include, but are not limited to, how the collaborating/consulting physician and nurse practitioner plan to implement the protocol, the method and manner of collaboration, consultation, and referral.

The requirement for Board appearance and approval set forth in the preceding paragraph also applies to any physician collaborating/consulting with a nurse practitioner who later moves to a free standing clinic under an existing protocol.

Where a nurse practitioner is practicing in a free standing clinic pursuant to an existing protocol as of the effective date of this regulation, the requirements of personal appearance or telephone interview and Board approval set forth in the paragraph above shall not be required until the next succeeding renewal date for said certificate as required by the Mississippi State Board of Nursing.

Where two or more physicians anticipate executing a protocol to collaborate/consult with a nurse practitioner practicing in a free standing clinic, it shall not be necessary that all of the physicians personally appear before the Mississippi State Board of Medical Licensure as required in the preceding paragraph. In this situation, the physician who will bear the primary responsibility for the collaboration/consultation with the nurse practitioner shall make the required personal appearance or telephone interview.

Each collaborative/consultative relationship shall include and implement a formal quality improvement program which shall be maintained on site and shall be available for inspection by representatives of the Mississippi State Board of Medical Licensure. The quality assurance/quality improvement program shall consist of:

- A. Review by collaborative physician of a random sample of charts that represent 10% or 20 charts, whichever is less, of patients seen by the nurse practitioner every month. Charts should represent the variety of patient types seen by the nurse practitioner. Patients that the nurse practitioner and collaborating physician have consulted on during the month will count as one chart review.
- B. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewer's names, and dates of review.
- C. Each nurse practitioner shall meet face to face with a collaborating physician once per quarter for the purpose of quality assurance and this meeting should be documented.

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

Rule 1.4 Collaborative/Consultative Relationships. Physicians with collaborative relationships with APRN must ensure backup physician coverage when the primary collaborative physician is unavailable. The backup physician must be on APRN protocol. In the event of death, disability (physical/mental), or relocation, which would result in the APRN not having a collaborative physician, the APRN has the duty to immediately notify the Mississippi Board of Nursing as jointly agreed by the Mississippi Board of Nursing and the Mississippi Board of Medical Licensure. The Nursing Board will then immediately notify the Mississippi State Board of Medical Licensure.

In order that patients may continue to be treated without interruption of care, the APRN may be allowed to continue to practice for a 90-day grace period while the APRN attempts to secure a collaborative physician without such practice being considered the practice of medicine. The Mississippi State Board of Medical Licensure or its designee, will serve as the APRN's collaborative physician with the agreement of the Mississippi Board of Nursing. The Mississippi State Board of Medical Licensure and the Mississippi State Board of Nursing will assist the APRN in their attempt to secure a collaborative physician. If a collaborative physician has not been secured at the end of the 90-day grace period, an additional 90-day extension may be granted by mutual agreement of the Executive Committee of the Mississippi Board of Nursing and the Executive Committee of the Mississippi State Board of Medical Licensure. During this

additional 90-day extension, the above described collaborative agreement will continue. The APRN will not be allowed to practice until the previously described collaborative arrangement with the Mississippi State Board of Medical Licensure is agreed upon.

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

Rule 1.5 Violation of Rules. Any violation of the rules 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 1.6 Effective Date of Regulation. The above rules pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009. Amended July 14, 2011.

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

Part 2630 Chapter 2: The Supervision of Pharmacists

Rule 2.1 Preamble. To optimize the favorable professional working relationship that already exists between the state of Mississippi's physician and pharmacist communities, the following is directed.

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

Rule 2.2 Scope. These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

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

Rule 2.3 Definitions. For the purpose of Part 2630, Chapter 2 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. Supervising Physician means a physician who, pursuant to a duly executed written guideline or protocol as hereinafter defined, has agreed to supervise a pharmacist and is the physician responsible for the overall management and supervision for the activities of the pharmacist as is directly related to patients receiving medications or disease management services under the protocol.
- C. Pharmacist means any person licensed to practice pharmacy in the state of Mississippi, who has met all requirements of Article XXXVI of the rules and regulations of the Mississippi State Board of Pharmacy to either (i) accept patients referred by a physician, (ii) initiate or modify drug therapy, or (iii) order lab work, all in accordance with written guidelines or protocols as hereinafter defined.
- D. Written Guideline or Protocol means an agreement in which a physician authorized to prescribe drugs delegates to a pharmacist authority to consult with a patient or to conduct specific prescribing functions in an institutional setting, or with

individual patients, provided that a specific protocol agreement is signed on each patient and is filed with the Mississippi State Board of Pharmacy as required by Mississippi Code, Section 73-21-73(11) and is filed with this Board.

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

Rule 2.4 Board Review - Protocol Format.

- A. Before any physician shall execute a protocol to supervise a pharmacist in the care or consultation with a patient, or initiation and/or modification of prescription drug therapy, and/or ordering lab work, the supervising physician must jointly execute a written guideline or protocol with the pharmacist and thereafter file the same with the Mississippi State Board of Medical Licensure.
- B. No protocol agreement authorizing the care or consultation with a patient, or initiation and/or modification of prescription drug therapy shall be executed by a physician unless the protocol shall meet at a minimum the following requirements:
 - 1. Identifies the physician who agrees to supervise the pharmacist and the scope of the physician's active practice.
 - 2. Describes the specific responsibilities authorized by the supervising physician.
 - 3. Describes the method the pharmacist shall use to document decisions or recommendations the pharmacist makes to the supervising physician.
 - 4. Describes the patient activities the supervising physician requires the pharmacist to monitor.
 - 5. Describes the types of reports the supervising physician requires the pharmacist to report and the schedule by which the pharmacist is to submit these reports.
 - 6. Includes a statement of the medication categories and the type of initiation and modification of drug therapy that the supervising physician authorizes the pharmacist to perform.
 - 7. Describes the procedures or plan that the pharmacist shall follow if the pharmacist exercises initiation and modification of drug therapy.
 - 8. Indicates the date the supervising physician's supervision ends. The duration of the protocol agreement shall not exceed one (1) year.
 - 9. Be dated and signed by the pharmacist(s) and the supervising physician. If more than one physician agrees to supervise the pharmacist(s), each physician and pharmacist(s) shall sign and date the protocol.
 - 10. Includes a statement that stipulates that the patient has been notified by the pharmacist(s) and the supervising physician that a protocol agreement exists.
 - 11. Includes a statement which certifies that the physician(s) has advised their respective malpractice liability carriers concerning the protocol and supervisory relationship, and that any potential liability that may ensue as a result of implementing the protocol agreement, shall be covered by the malpractice liability insurance policies or endorsements thereto.
- C. No protocol agreement authorizing the ordering of lab work by a pharmacist shall be executed by a physician unless the protocol shall meet at a minimum the following requirements:
 - 1. Identifies the physician who agrees to supervise the pharmacist and the scope of the physician's active practice.

2. Describes the specific responsibilities authorized by the supervising physician, including the type of lab tests the supervising physician authorizes the pharmacist to order.
3. Describes the method the pharmacist shall use to document decisions or recommendations the pharmacist makes to the supervising physician.
4. Describes the patient activities the supervising physician requires the pharmacist to monitor.
5. Describes the types of reports the supervising physician requires the pharmacist to report and the schedule by which the pharmacist is to submit these reports.
6. Describes the procedures or plan that the pharmacist shall follow if the pharmacist orders lab tests.
7. Describes the process which the physician employs to periodically monitor the pharmacist's interpretation of the lab tests.
8. Indicates the date the supervising physician's supervision ends. The duration of the protocol agreement shall not exceed one (1) year.
9. Be dated and signed by the pharmacist(s) and the supervising physician. If more than one physician agrees to supervise the pharmacist(s), each physician and pharmacist(s) shall sign and date the protocol.
10. Includes a statement that stipulates that the patient has been notified by the pharmacist(s) and the supervising physician that a protocol agreement exists.
11. Includes a statement which certifies that the physician(s) has advised their respective malpractice liability carriers concerning the protocol and supervisory relationship, and that any potential liability that may ensue as a result of implementing the protocol agreement, shall be covered by the malpractice liability insurance policies or endorsements thereto.

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

Rule 2.5 Supervising Physician Limited. No physician shall be authorized to supervise a pharmacist unless that physician holds an unrestricted license to practice in the state of Mississippi. Likewise, no physician shall be authorized to supervise a pharmacist unless that pharmacist holds an unrestricted license to practice in the state of Mississippi.

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

Rule 2.6 Termination or Changes in the Protocol. Any physician desirous of termination or amending the supervisory protocol with a pharmacist shall so notify in writing, the pharmacist, the Mississippi State Board of Pharmacy and the Mississippi State Board of Medical Licensure to the attention of the Executive Director. The notification shall include the name of the pharmacist, the desired change, and proposed effective date of change.

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

Rule 2.7 Violation of Rules/Disapproval of Supervision. Any violation of the rules 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 2.8 Effective Date of Rules. The above rules pertaining to supervising physicians shall become effective November 18, 1999.

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”* means any invasive procedure which results in the projection into (i.e. laser surgery), entering, cutting or suturing of tissue or any body organ.

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

Rule 1.3 Informed Consent. The ultimate responsibility for diagnosing medical and surgical problems 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 an equivalently trained 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 permitted to be performed by auxiliaries.

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.

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. öSurgeryö 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. öSurgeonö is defined as a licensed physician performing any procedure included within the definition of surgery.
- C. Implicit within the use of the term öequipmentö is the requirement that the specific item named must meet current performance standards.
- D. öOffice surgeryö 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 öSurgical Eventö 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 öSurgical Eventö in the immediate peri-operative 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, it is strongly recommended that a reasonable amount of fat should be removed in the office setting, i.e., a range of 4000cc to 5000cc of supernatant fat in a 70 Kg patient with a BMI (body mass index) of less than 30. This range should be adjusted downward in thin patients (less than 25 BMI) and upward in obese patients (over 30 BMI). Morbidly obese patients should preferably have liposuction performed in the hospital 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. This shall not apply to offices that limit surgery to Level I 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's office must have a written response plan for emergencies within their 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.

It is strongly recommended that the American Society of Anesthesiologists' ***Guidelines for Office-Based Anesthesia*** and/or ***American Association of Nurse Anesthetists' Standards for Office Based Anesthesia*** be utilized for Level III procedures.

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, cysto-scopic procedures, and closed reduction of simple fractures or small joint dislocations (i.e., finger and toe joints).
 - iii. Pre-operative medications not required or used other than minimal pre-operative tranquilization of the patient; anesthesia is local, topical, or none. 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 proper dosages and management of toxicity or hypersensitivity to regional anesthetic drugs. Basic Life Support Certification is required.
 - ii. Equipment and Supplies Required

Oral airway, positive pressure ventilation device, Epinephrine (or other vasopressor), Corticoids, Antihistamine and Atropine, if any anesthesia is used. 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 peri-operative medication and sedation are used orally, intravenously, intramuscularly, or rectally, thus making intra and post-operative monitoring necessary. Such procedures shall include, but not be 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 includes any surgery in which the patient is placed in a state which allows 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 if the surgeon does not have staff privileges to perform the same procedure as that being performed in the office based surgical setting at a licensed hospital within reasonable proximity.

C. Level of Anesthetic

Local or peripheral major 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. 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. The surgeon and one attending assistant must be certified in Basic Life Support. It is recommended that the surgeon and at least one assistant be certified in Advanced Cardiac Life Support or have a qualified anesthetic provider, practicing within the scope of the provider's license, 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. Emergency power source able to produce adequate power to run required equipment for a minimum of two (2) hours, which would require generator on site.
- 8. Appropriate sterilization equipment.
- 9. IV solution and IV equipment.

F. Assistance of Other Personnel Required

The surgeon and at least one attending assistant must be certified in Basic Life Support. It is recommended that the surgeon and at least one assistant be certified in Advanced Cardiac Life Support. A registered nurse may only administer analgesic doses of anesthetic agents under the direct order of a physician. An assisting anesthesia provider cannot 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. Surgeon must have a written agreement with a qualified support physician with hospital privileges within reasonable proximity to cope with any problems that may arise if the surgeon performing the procedure does not have such privileges.

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 reasonably should require, the use of a general anesthesia or major conduction anesthesia and pre-operative 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 Anesthesiologists (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 and precautions that make the office an appropriate forum 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 if the surgeon does not have staff privileges to perform the same procedure as that being performed in the office based surgical setting at a licensed hospital within reasonable proximity.

C. 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.

D. 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. 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. The surgeon and at least one attending assistant must be certified in Basic Life Support. It is recommended that the surgeon and at least one assistant be certified in Advanced Cardiac Life Support.
3. Emergency procedures related to serious anesthesia complications should be formulated, periodically reviewed, practiced, updated, and posted in a conspicuous location.

E. Equipment and Supplies Required

1. Equipment, medication, including at least 12 ampules of dantrolene on site (in cases involving general inhalation or general endotracheal anesthesia), and monitored post-anesthesia recovery must be available in the office.
2. The office, 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.
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.

F. 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 cannot 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 June 1, 2002.

Amended April 18, 2002. Amended September 18, 2002.

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) in a clinical setting by delivering the medicine through parenteral or oral routes beyond its FDA approved clinical indications of laboratory documented heavy metal poisoning/intoxication/toxicity, without support of the scientific literature contained within the National Library of Medicine, or certainly much more than anecdotal evidence of its effective use in the treatment of a disease or medical condition for which a licensee uses it may be considered to be violation of Mississippi Code, Section 73-25-29(8)(d). However, EDTA may be used in the clinical setting when a licensee experienced in clinical investigations has applied for and received from the Board written approval for a carefully controlled clinical investigation of its effectiveness in treating diseases or medical conditions other than those approved by the FDA under a protocol satisfactory to the Board to be conducted in an academic institution. That the advertising of EDTA's administration in any matter to prevent or cure diseases or medical conditions other than laboratory documented heavy metal poisoning/intoxication/toxicity, without support of the scientific literature contained within the National Library of Medicine or certainly much more than anecdotal evidence of its effective use in the treatment of a disease or medical condition for which a licensee advertises it 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.

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. However, a valid Mississippi license is not required where the evaluation, treatment and/or medicine given to be rendered by a physician outside of Mississippi is requested by a physician duly licensed to practice medicine in Mississippi, and the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated.

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 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.

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

Part 2635 Chapter 6: Electromyography

Rule 6.1 General. Electromyography (EMG) falls into two primary categories: needle electromyography testing and nerve conduction testing. Needle electromyography testing involves insertion of needle electrodes into skeletal muscles and concurrent observation of the electrical activity in those muscles by means of an oscilloscope and a loudspeaker. Nerve conduction testing is performed using the same equipment, but consists of surface stimulation or needle stimulation of peripheral nerves with an evaluation of the motor and/or sensory action potentials produced.

The purpose of both categories of electromyography is to detect abnormalities of the peripheral neuromuscular system or to determine the extent and degree of recovery of neuromuscular abnormalities--that is, to diagnose.

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

Rule 6.2 Delegation of EMG Procedures. Electromyography is an extension of the history and physical examination and must be considered only in the light of the clinical finding. The person performing electromyography 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 electromyographic procedure may be modified until a probable diagnosis is reached. Results of electromyographic examinations are used for recommending surgical procedures and for determining the absence of disease with most serious prognoses.

EMG test procedures do not follow any stereotyped pattern, and electromyography is almost impossible to standardize, including both needle explorations and nerve conduction testing. Collection of clinical and electrophysiologic data during EMG test procedures should be done by a qualified electrodiagnostic (EDX) physician consultant, but collection of some data can be delegated to a specifically trained non-physician or physician in a residency training program or fellowship. This is to be done under the direct supervision of the EDX qualified physician consultant, whose presence is not required in the room where the procedure is being performed, but must be immediately available within the same building, in order to furnish the non-physician employee (or other physician) with assistance and direction, if needed, throughout the performance of the entire procedure.

Adopted November 20, 2003.

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 for the first time.

Exceptions to this circumstance that would be permissible may include, but not be limited to: admission orders for a newly hospitalized patient, prescribing for a patient of another physician

for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

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, is inappropriate, fails to meet a basic standard of care that potentially places patient's health at risk and could constitute unprofessional conduct punishable by disciplinary action.

Adopted September 18, 2003. Amended July 15, 2004.

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 unreferral 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

öRules, Laws, and Policies of the Mississippi State Board of Medical Licensure.ö 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.

öThe Role of Licensing Boards in the Evaluation and Discipline of the Expert Witness.ö 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

Part 2635 Chapter 9 Community-Based Immunization Programs

Rule 9.1 Scope. The administration of vaccinations clearly 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 Definitions. For the purpose of Part 2635, Chapter 9 only, the following term has the meaning indicated:

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 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-time” means a minimum of 20 hours per week.

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

Rule 9.3 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 nurse and
- B. 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 licensed in the state of Mississippi, who is in at least part-time practice of medicine and resides in the state of Mississippi; and,
 - 3. a single physician assumes responsibility for the safe conduct of the immunization program.

Adopted March 24, 2011.

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

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.

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

Rule 10.2 Medical Records - Property of Licensee/Clinic. Medical records, as defined herein, are and shall remain the property of the licensee or licensees, in whose clinic or facility said records are maintained, subject, however, to reasonable access to the information contained in said records as set forth herein below.

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

Rule 10.3 Transfer of Patient Records to Another Licensee. A licensee who formerly treated a patient shall not refuse for any reason to make the information contained in his or her medical records of that patient available upon request by the patient, or legal representative of the patient, 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 the patient, patient's legal representative, or other person holding a written release and authorization (hereinafter, "authorized requesting party"), provide a copy of a patient's medical record to the authorized requesting party; provided, however, 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. 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 patients or their representatives 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.
- B. A licensee shall only charge normal, reasonable and customary charges for a deposition related to a patient that the licensee is treating or has treated.
 - C. Any medical provider shall charge no more than Twenty-five Dollars (\$25.00) for executing a medical record affidavit, when the affidavit is requested by the patient or the patient's representative.

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

Rule 10.7 Exclusion. Federal or state agencies providing benefit programs are excluded from the above stated fees. Records that are requested by state or federal agencies for said benefit programs shall pay an acceptable rate as established by the requesting federal or state agency.

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 as enumerated above 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.

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

Part 2635 Chapter 11: Prevention of Transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV) to Patients

Rule 11.1 Scope. The following rules of prescribed practice and reporting requirements for physicians and podiatrists licensed in the state of Mississippi are to protect the public from the risk of transmission of Hepatitis B Virus, Hepatitis C Virus and Human Immunodeficiency Virus from physicians to patients and to insure the maintenance of quality medical care by physicians and podiatrists who are HbeAg, HCV and HIV seropositive.

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

Rule 11.2 Definitions. For the purpose of Part 2635, Chapter 11 only, the following terms have the meanings indicated:

- A. HBV means Hepatitis B Virus.
- B. HCV means Hepatitis C Virus.
- C. HIV means Human Immunodeficiency Virus.
- D. HBeAg seropositive means that a test of the practitioner's blood has confirmed the presence of Hepatitis Be antigen.
- E. HCV seropositive means that a test of the practitioner's blood has confirmed the presence of Hepatitis C antigen.

- F. “HIV seropositive” means that a test of the practitioner's blood has confirmed the presence of HIV antibody.
- G. “Exposure-Prone Procedure” means an invasive procedure in which there is an increased risk of per cutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp object in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient.
- H. “Practitioners” or “Physicians” means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- I. “Act” means the Mississippi Medical Practice Act as found at Sections 73-25-1 through 73-27-19, Mississippi Code.

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

Rule 11.3 Use of Infection Control Precautions. General Requirements

A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in the performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control and Prevention to minimize the risk of transmission of the HBV or HIV from a practitioner to a patient, from a patient to a practitioner, from a patient to a patient, or from a practitioner to a practitioner.

Universal Blood and Body-Fluid Precautions. For purposes of this rule, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards:

- A. **Protective Barriers.** A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or cesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.
- B. **Hand Washing.** Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.
- C. **Per Cutaneous Injury Precautions.** A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles, and when handling sharp instruments after procedures. If a needle stick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needle stick injuries, needles should not be recapped,

- purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.
- D. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.
 - E. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.
 - F. Precautions for Practitioners with High Risk Lesions and Dermatitis. Practitioners who have exudative lesions or weeping dermatitis must refrain from all direct patient care and from handling patient care equipment and devices used in performing invasive procedures until the condition is resolved.
 - G. Failure to Comply with Standards. Failure by a practitioner to adhere to the Universal Blood and Body Fluid Precautions established herein shall be deemed unprofessional conduct in violation of Section 73-25-29(8)(d). Upon report of a violation, the Board of Medical Licensure shall take action consistent with the Medical Practice Act to determine if a violation has occurred, and if a violation has occurred, determine what sanctions, if any, are appropriate. The practitioner shall be entitled to the procedures guaranteed by the Act, including, but not necessarily limited to, a hearing concerning the charge(s).

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

Rule 11.4 Screening/Reporting. It is recommended that physicians know their HIV, HBV or HCV antibody status and submit to the appropriate tests to determine this status on an annual basis on or before the physician's birthday.

Any practitioner who is or becomes HBeAg seropositive, HCV seropositive or HIV seropositive shall give written notice of such seropositivity to the Board of Medical Licensure on or before thirty (30) days from the date the seropositivity is determined.

The written notice of seropositivity as required in above paragraph shall be sent by registered mail to the attention of the Board's Executive Officer, and shall include a copy of the test results and identification of the physician's treating physician.

A panel shall be established to monitor physicians who are HIV seropositive, HBeAg seropositive or HCV seropositive. The panel shall consist of the physician's private physician(s), an infectious disease specialist with expertise in the epidemiology of HIV, HBV and HCV transmission, a practitioner with expertise in the procedures performed by the infected practitioner, a psychiatrist, and a member and/or Executive Officer of the Board of Medical Licensure. The above list is not intended to be all inclusive and other physicians or

representatives of other fields of medicine can be added to the panel, at the request of either the infected physician, a panel member, and/or the Board of Medical Licensure.

The panel shall designate two or more of its members to meet with seropositive physicians to evaluate the physicians' practice, extent of illness and other factors to determine what modifications, if any, will be required in their practice patterns. In addition, the panel shall meet at least annually with the Board to report its progress, discuss enforcement and related issues.

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

Rule 11.5 Confidentiality of Reported Information.

A. General Confidentiality.

Reports and information furnished to the Board pursuant to Part 2635, Rule 11.4 shall be confidential and privileged. Said reports and information shall not be subject to disclosure without prior written consent of the practitioner identified in the report.

B. Confidentiality of Identity of Seropositive Practitioners.

The identity of practitioners who have reported their status as carriers of HBV, HCV or HIV to the Board pursuant to Part 2635, Rule 11.4 shall be maintained in confidence by the Board and shall not be disclosed to any person, firm, organization, or entity, governmental or private, except as may be necessary in the investigation or prosecution of suspected violations of this rule and regulation or violation of the Mississippi Medical Practice Act.

C. Disclosure of Statistical Data.

Provided that the identity of reporting practitioners is not disclosed, the provisions of this rule shall not be deemed to prevent disclosure by the panel or Board of statistical data derived from such reports, including, the number and licensure class of practitioners having reported themselves as HbeAg, HCV and/or HIV seropositive and their geographical distribution.

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

Rule 11.6 Penalties. HIV, HBV or HCV positive practitioners who perform exposure-prone procedures or otherwise practice contrary to the direction of the panel shall be guilty of unprofessional conduct in violation of Section 73-25-29(8)(d). Upon report of a violation, the Board shall take action consistent with the Act to determine if a violation has occurred and if so, determine what sanctions, if any, are appropriate. The practitioner shall be entitled to the procedures guaranteed by the Act including, but not limited to, a hearing concerning the charge(s).

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

Rule 11.7 HIV, HBV and HCV Tests. All tests to determine HIV, HbeAg or HCV seropositivity should be performed at a standardized laboratory that is licensed in the state of Mississippi.

Adopted July 1, 1992. Amended November 18, 1993. Amended September 23, 1999.

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

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 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 can sometimes 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, regardless of format or content, 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.
 - 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 "board approved" residency program, which provides specific training in the specialized field and can submit proof that such training was completed, or (ii) can submit proof that while not completing a residency, was "grandfathered" into a specialty by successful completion of board examinations followed by board certification by the American Board of Medical Specialties or the American Osteopathic Association. A "board approved" residency program shall be limited to residency programs recognized by the American Medical Association, by the American Osteopathic Association, and by the American Podiatric Medical 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 an appropriately worded, clear and prominent disclosure of (a) what the generally expected performance 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 new drug or medication or new 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.

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

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply 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 1.2 Definitions. For the purpose of Part 2640, Chapter 1 only, the following terms have the meanings indicated:

- A. Administer, Controlled Substances, and Ultimate User shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
- B. Physician means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- C. Prescribe means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
- D. Dispense means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.7.B, Dispensing Physician means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
- F. Prescription Drug or Legend Drug means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; Caution: Federal law prohibits dispensing without prescription, or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.
- G. Pain Management Clinic means a public or privately owned facility for which the majority (50% or more) of the patients are issued, on a monthly basis, a prescription for opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol.
- H. Bariatric Medicine/Medical Weight Loss Clinic means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs. In addition, that physician must be registered with the Mississippi Prescription Monitoring Program (MPMP) by December 31, 2013.

Pursuant to authority granted in Mississippi Code, Section 41-29-125, the Mississippi State Board of Medical Licensure hereby adopts, in lieu of a separate registration with the Board, the registration with the U.S. Drug Enforcement Administration as required in the above paragraph. In the event, however, a physician has had limitations or other restrictions placed upon his or her license wherein he or she is prohibited from handling controlled substances in any or all schedules, said physician shall be prohibited from registering with the U.S. Drug Enforcement Administration for a Uniform Controlled Substances Registration Certificate without first being expressly authorized to do so by order of the Mississippi State Board of Medical Licensure.

Persons registered to prescribe, administer, dispense or conduct research with controlled substances may order, possess, prescribe, administer, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of these rules and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.

The registration requirement set forth in these rules does not apply to the distribution and manufacture of controlled substances. Any physician who engages in the manufacture or distribution of controlled substances or legend drugs shall register with the Mississippi State Board of Pharmacy pursuant to Mississippi Code, Section 73-21-105. For the purposes herein, "distribute" shall mean the delivery of a drug other than by administering, prescribing or dispensing. The word "manufacture" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105(q).

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

Rule 1.4 Maintenance of Records and Inventories. Every physician licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi shall maintain inventories, logs, and records prescribed in this rule.

Controlled substances inventory record. All controlled substances classified under Schedules II, IIN, III, IIIN, IV and V which are purchased by the physician must be inventoried at least every two (2) years. All inventory records for controlled substances in Schedules II and IIN must be maintained separately from the inventory records for Schedules III, IIIN, IV and V controlled substances. To insure the reliability of an inventory, the physician shall maintain a readily retrievable record of controlled substances purchased, including a copy of all purchase invoices identifying the name, quantity and strength/dose of the controlled substance purchased, the supplier and the date purchased.

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This

requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

- A. The date the controlled substance was dispensed or administered.
- B. The name, quantity and strength/dose of the controlled substance dispensed or administered.
- C. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.
- D. The name and address of the patient to whom the controlled substance was dispensed or administered.
- E. For all Schedules II and III amphetamines, amphetamine-like anorectic drugs, or sympathomimetic amine drugs dispensed in the treatment of narcolepsy, hyperkinesis, brain dysfunction, epilepsy, or depression, the dispensing or administration records shall include the diagnosis and the reason for use of the Schedules II and III controlled substances.

Within thirty (30) days after the effective date of this rule the Mississippi State Board of Medical Licensure shall cause a notice to be mailed to every physician whose practice location is in the state of Mississippi notifying them of the Controlled Substance Inventory and separate Dispensation/Administration Record. Every physician shall within ninety (90) days of the effective date of this rule, prepare an initial inventory of controlled substances. An example combination Controlled Substances Inventory Record and Controlled Substances Dispensation/Administration Record are hereby incorporated as Appendixes öCö and öDö to these rules.

Patient Record. A physician who prescribes, dispenses or administers a controlled substance shall maintain a complete record of his or her examination, evaluation and treatment of the patient which must include documentation of the diagnosis and reason for prescribing, dispensing or administering any controlled substance; the name, dose, strength, quantity of the controlled substance and the date that the controlled substance was prescribed, dispensed or administered. The record required by this rule shall be maintained in the patient's medical records, provided that such medical records are maintained at the office of the physician and are available for inspection by the representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.

No physician shall prescribe, administer or dispense any controlled substance or other drug having addiction-forming or addiction-sustaining liability without a good faith prior examination and medical indication therefore.

A determination as to whether a ögood faith prior examination and medical indication thereforeö exists depends upon the facts and circumstances in each case. One of the primary roles of a physician is to elicit detailed information about the signs and symptoms which a patient presents in order that he or she may recommend a course of treatment to relieve the symptoms and cure the patient of his or her ailment or maintain him or her in an apparent state of good health. In order for a physician to achieve a proper diagnosis and treatment plan, a history and physical examination consistent with the nature and complaint are necessary. The importance of these aspects of proper medical practice cannot be over emphasized. The paramount importance of a

complete medical history in establishing a correct diagnosis is well established. Standards of proper medical practice require that, upon any encounter with a patient, in order to establish proper diagnosis and regimen of treatment, a physician must take three steps: (a) take and record an appropriate medical history, (b) carry out an appropriate physical examination, and (c) record the results. The observance of these principles as a function of the course of legitimate professional practice is particularly of importance in cases in which controlled substances are to play a part in the course of treatment. It is the responsibility of the physician to dispense, prescribe or administer such drugs with proper regard for the actual and potential dangers. This fact has been established in a number of closely related administrative and criminal cases, **United States v. Bartee**, 479 F.2d 484 (10th Cir. 1973) (No physical examination prior to issuance of prescriptions for controlled substances); **United States v. Greene**, 511 F.2d 1062 (7th Cir. 1975); **Arthurs v. Board of Registration of Medicine**, 418 N.E. 2d 1236 (MA 1981) (failure to record in patient file prescriptions for controlled substances issued or failure to record patient visit); **Brainard v. State Board of Medical Examiners**, 157 P.2d 7 (Ca. 1945); **Dannerberg v. Board of Regents**, 430 N.Y.2d 700 (1980) (issuance of three prescriptions for sleeping pills to an undercover agent without a physical examination); **Widlitz v. Board of Regents of New York**, 429 N.Y. 2d 794 (1980) (issuance of Desoxyn to patients whom physician knew were drug addicts without conducting physical examination); **United States v. Rosenberg**, 515 F.2d 190 (9th Cir. 1975) (no physical examination, evidences that prescriptions were not in course of professional practice); and **United States v. Hooker**, 541 F.2d 300 (1st Cir. 1976), (little more than cursory physical examination, frequent neglect to inquire as to past medical history, little or no exploration of the type of problem the patient allegedly had indicates that the minimal professional procedures followed were designed only to give an appearance of propriety to appellant's unlawful distributions).

A determination of proper medical indication also requires a careful examination of the nature of the drug and all circumstances surrounding dispensation. Case law developed by the courts in connection with controlled substances criminal violations and administrative decisions further illustrates several indications of lack of good faith. See **United States v. Greene**, 511 F.2d 1062 (7th Cir. 1975) and **United States v. Rosenberg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of good faith may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts

A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.

The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these rules shall be maintained in the office of the

physician for a period of seven (7) years from the date that the record is completed or the controlled substances, legend drugs or other medications are prescribed, administered or dispensed and shall be made available for inspection by representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.

A physician may use a data processing system or a manual record keeping system for the storage and retrieval of Controlled Substances Dispensation/Administration Records. If a physician utilizes a data processing system it must provide immediate retrieval of all dispensation/administration records of controlled substances.

Whether maintained manually or in a data processing system, all records of dispensation/administration of controlled substances must be readily retrievable. If a data processing system is utilized, a hard-copy printout of the records of dispensation/administration shall be made at regular intervals, not to exceed seven (7) days. Such hard-copy printouts shall be maintained for a period of five (5) years and shall be made available for inspection and copying by investigators of the Mississippi State Board of Medical Licensure.

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

Rule 1.5 Use of Diet Medication. Pursuant to Mississippi Code, Section 41-29-139(e), it is unlawful for any physician in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectic and/or central nervous system stimulant classified as Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control, or weight loss.

The Board of Medical Licensure is obligated under the laws of the state of Mississippi to protect the public health and safety. The Board recognizes that inappropriate prescribing of controlled substances, including those used for the purpose of weight reduction, may lead to drug diversion and abuse by individuals who seek drugs for other than legitimate medical use. Physicians should be diligent in preventing the diversion of drugs for illegitimate purposes.

Prescribing or dispensing a controlled substance for weight reduction or the treatment of obesity should be based on accepted scientific knowledge and sound clinical grounds. All such prescribing and dispensing should be in compliance with applicable state and federal laws.

The physician and/or nurse practitioner/physician assistant being overseen/collaborating to provide comprehensive treatment of obesity shall be present at the facility when he or she prescribes or dispenses controlled substances for the purpose of weight reduction or the treatment of obesity.

As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, order, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of weight reduction based on caloric restriction, provided the physician complies with the following and that all of the following conditions are met:

- A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing,

ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:

1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
 2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
 3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
 4. The patient should have a BMI of $\times 30.0$ in a normal otherwise healthy patient, or a BMI $\times 27.0$ in an individual with at least one associated co-morbidity, or current body weight $\times 120$ percent of a well-documented, long standing healthy weight that the patient maintained after the age of 18, or body fat $\times 30\%$ in females, or body fat $\times 25\%$ in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
 5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.
- B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.
- C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.
- D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.
- E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.

- F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.
- G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

Any off-label use of any medication that does not have Food and Drug Administration approval for use in the treatment of weight loss is prohibited. Thyroid hormone, diuretics, vitamin B12, B1, B2, B6, methionine, choline, inositol, chromium picolate and human chorionic gonadotropin are examples of medications that may not be used in the sole treatment of weight loss and are not inclusive examples. Off-label use of medication that does not have Food and Drug Administration approval for the sole use and treatment of weight loss is prohibited in individual practice or allowing off-label use by midlevel providers will result in discipline by the Board. (Non FDA approved supplements may be used in the overall treatment of weight loss.)

Record keeping guidelines for medical weight loss: Every physician who prescribes, orders, dispenses, or administers a controlled substance to a patient for the purpose of weight reduction or treatment of obesity is required to maintain medical records in compliance to the above required guidelines. The treatment should be based on evidence based medicine. Adequate medical documentation should be kept so that progress as well as the success or failure of any modality is easily ascertained. The medical record should also contain the information demonstrating the patient's continued efforts to lose weight, the patient's dedication to the treatment program and response to treatment, and the presence or absence of contraindications, adverse effects and indicators of the need to discontinue treatment utilizing controlled substances.

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

- A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.
- B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic

once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

- C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.
- D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.
- E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
 - 1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
 - 2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.
- F. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

Rule 1.7 Use of Controlled Substances for Chronic (Non-Terminal) Pain.

A. Definitions

For the purpose of Part 2640, Rule 1.7 only, the following terms have the meanings indicated:

- 1. Chronic Pain is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving

- controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have *de facto* chronic pain and subject to the same requirements of this regulation. *Terminal Disease Pain* should not be confused with *Chronic Pain*. For the purpose of this rule, *Terminal Disease Pain* is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. *Acute Pain* is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
 3. *Addiction* is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
 4. *Physical Dependence* is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
 5. *Substance Abuse* is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
 6. *Tolerance* is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.
- B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.
- C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:
1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an

- indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
 3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
 4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.
- D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.
- E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.
- F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of

relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

Rule 1.8 Drug Maintenance Requirements. All drug products which are maintained/stored in the office of a physician shall be maintained/stored in the manufacturer's or repackager's original container. The label of any container in which drugs are maintained must bear the drug name, strength, the manufacturer's control lot number and the expiration date. Drugs which are precounted and prepackaged for purposes of dispensing shall be identifiable as to expiration date and manufacturer's control lot number. The containers in which drug products are maintained shall not be labeled in any false or misleading manner. The labeling requirements of this rule are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.

A physician shall not dispense out-of-date drugs or store out-of-date drugs intermixed with the stock of current drugs. Out-of-date drugs shall be promptly removed from current stock and stored separately until proper disposal shall be made. A physician, when dispensing a product in a manufacturer's original package or container, the labeling of which bears an expiration date, a manufacturer's control lot number or other information which may be of value to the patient, shall dispense the product with this information intact.

The drug storage and dispensing area shall be maintained in a sanitary fashion.

A physician shall not accept the return for subsequent resale or exchange any drugs after such items have been taken from the premises where sold, distributed or dispensed and from the control of the physician.

All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

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

Rule 1.9 Labeling Requirements for Dispensing Physicians. For the purposes of this rule, a "dispensing physician" shall mean any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.

Every dispensing physician, as defined above, who shall dispense a controlled substance, legend drug or any other medication shall insure that all such substances dispensed be labeled containing the following information:

- A. The name of the patient to whom the medication was dispensed.
- B. The date that the medication was dispensed.
- C. The name, strength and quantity of the medication.
- D. Direction for taking or administering the medication.
- E. The name and address of the physician dispensing the medication.

The label required by this rule shall be written in legible handwriting or typed and shall be permanently affixed to the package or container in which the medication is dispensed. This labeling requirement shall not apply to prepackaged samples or starter packs in their original packages or containers.

No physician may delegate dispensing authority to another person. A physician must personally dispense the medication. For the purpose of this regulation, "personally dispense" shall mean the physician must actually obtain the medication, prepare, count, place the same into the appropriate container and affix the appropriate label to the container.

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

Rule 1.10 Prescription Guidelines—Controlled Substances. It is the responsibility of the physician or physician assistant to determine the type, dosage, form, frequency of application and number of refills of any controlled substances prescribed to a patient. It is recognized that other healthcare providers may prescribe controlled substances. The following requirements apply to all prescriptions for controlled substances written by healthcare professionals with controlled substance prescriptive authority regulated by the Mississippi State Board of Medical Licensure:

- A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
- B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
- C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
- D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
- E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
- F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the

purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

1. The prescription order shall contain the date, time, telephone number and location of the transmitting device. Prescription blanks utilized in this manner shall bear a pre-printed heading that indicates the blank is a "Fax Prescription Form." Fax prescription orders must contain a manual or authenticated electronic/digital signature of the prescriber. As to Schedule II drugs, only Schedule II narcotic substances that are to be prepared or compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intra spinal infusion may be transmitted by the physician or the physician's agent to a pharmacy of the patient's choice by facsimile. All original hardcopy faxed prescriptions shall immediately be voided after successfully completing the fax transmission by writing across the face of the prescription from corner to corner the notation "faxed." The original prescription (or copy) shall be retained in the physician's patient file with additional information included on the back of the prescription as to the date it was faxed, the name or initials of the person faxing the prescription and the name/location of the pharmacy receiving the fax transmission.

It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.

2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will be prepared and maintained in the same manner as described in Part 2640, Rule 1.10.F.1.
3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.10.F.1.

4. Each system shall have policies and procedures that address the following:
 - i. The patient shall not be restricted from access to the pharmacy of their choice.
 - ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
 - iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

G. No more than one (1) controlled substance shall be issued on a single prescription blank.

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

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. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, 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. Electronic transmissions may be computer to computer or computer to facsimile.
- B. 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 physician. This does not prohibit, however, 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 shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
- C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of controlled substances prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.
- D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-

printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician 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.

- E. 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 physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.
- F. Every written prescription issued by a physician 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. Physicians should avoid issuing prescriptions refillable on "prn" basis. If a physician 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. Thereafter, a new prescription, if indicated, must be issued.

Every written prescription issued by a physician, bearing more than one non-controlled medication, shall 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 shall be clearly voided by the issuing physician.

- G. A prescription shall no longer be valid after the occurrence of any one of the following events:
 - 1. Thirty (30) days after the death of the issuing physician.
 - 2. Thirty (30) days after the issuing physician has moved or otherwise changed the location of his or her practice so as to terminate the doctor/patient relationship. Termination of the doctor/patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing physician.
 - 3. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
 - 4. Immediately after revocation, suspension or surrender of the physician's license.

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell

their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

A physician may own or operate a pharmacy if there is no resulting exploitation of patients. A physician shall not give a patient prescriptions in code or enter into agreements with pharmacies or other suppliers regarding the filling of prescriptions by code. Patients are entitled to the same freedom of choice in selecting who will fill their prescription needs as they are in the choice of a physician. The prescription is a written direction for a therapeutic or corrective agent. A patient is entitled to a copy of the physician's prescription for drugs or other devices as required by the principles of medical ethics. The patient has a right to have the prescription filled wherever the patient wishes. Where medication is to be dispensed or a prescription, excluding refills, called in to a pharmacist for medication, a physician shall inform each patient of that patient's right to a written prescription and the right to have the prescription filled wherever the patient wishes.

Patients have an ethically and legally recognized right to prompt access to the information contained in their individual medical records. The prescription is an essential part of the patient's medical record. If a patient requests a written prescription in lieu of an oral prescription, this request shall be honored. Physicians shall not discourage patients from requesting a written prescription or urge, suggest or direct in any manner that a patient fill a prescription at an establishment which has a direct telephone line or which has entered into a business or other preferential arrangement with the physician with respect to the filling of the physician's prescriptions.

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

Rule 1.13 Other Drugs Having Addiction-forming Liability. All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Part 2640, Rule 1.4 when administering or dispensing the drug Nalbuphine Hydrochloride (Nubain) or its generic equivalent. The inventory and dispensation/administration records for said drug may be maintained separately or included as a part of the physician's controlled substance records.

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

Rule 1.14 Security of Controlled Substances. In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked,

substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Medical Practice.

- A. Definitions. For the purpose of Part 2640, Rule 1.15 only, the following terms have the meanings indicated:
1. Board means the Mississippi State Board of Medical Licensure.
 2. Physician means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
 3. Physician Assistant means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
 4. Prescriptive Authority means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
 5. Pain Management Medical Practice is defined as a public or privately owned medical practice that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, outpatient surgical clinics or physician/clinic practice(s) at which the majority of the patients are treated for pain as a result of a terminal illness.
- B. The physician owner(s)/operator(s) of the pain management medical practice must possess and maintain a majority ownership (more than 50%) of the pain management medical practice and shall register the practice with the Board. No physician may practice in a pain management medical practice unless that practice is majority owned (over 50 %) by a physician or physicians, unless exempted under A.5 above. A hospital or hospital-system owned pain management practice is exempt from the majority ownership requirement. A physician or medical director who owns, operates or is employed in any pain management medical practice must meet the requirements set forth below.
- C. Application for Initial Registration and Renewal. A physician owner(s)/operator(s) of the pain practice must:
1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
 2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
 3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
 4. report any changes of information provided in the application for registration or renewal within 30 days.

- D. Physician owner(s)/operator(s) may not operate a pain management practice in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure. Certificates, once issued, are not transferable or assignable. Only the primary physician owner is required to register with the Board if there is more than one physician owner of the practice. Each practice requires a separate certificate.
- E. Physician owner(s)/operator(s) or employees may not operate in Mississippi unless the practice is owned or operated by a hospital or by a medical director who:
 - 1. is a physician who practices full time in Mississippi; (Full time is defined as at least 20 hours per week of direct patient care.)
 - 2. holds an active unrestricted medical license that is not designated as limited, retired, temporary, or in-training; and
 - 3. holds a certificate of registration for that pain management practice.
- F. In addition, the physician owner(s)/operator(s) of a pain management practice, a physician or physician assistant employee of the practice or a physician or physician assistant with whom the physician owner(s)/operator(s) of a practice contracts for services may not:
 - 1. have been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
 - 2. have held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted;
 - 3. have been subject to a disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance; or
 - 4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.
- G. No physician or physician assistant may practice in a pain management medical practice who has been convicted of, pled nolo contendere to or received deferred adjudication for:
 - 1. an offense that constitutes a felony; or
 - 2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.
- H. Training Requirements for All Physicians Practicing in Pain Management Medical Practices. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:
 - 1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
 - 2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;

3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management.

Upon qualifying under any of the 5 subsections above, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

- I. Physicians and physician assistants practicing in a registered pain practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on the initial visit and at intervals deemed appropriate for good patient care from the MPMP for every patient receiving controlled substances in a registered pain management practice.
- J. Requirements for Physician Assistants Practicing in Pain Management Medical Practices. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:
 1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
 2. Physician assistants with approved prescriptive authority must obtain 15 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain practice;
 3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
 4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).
- K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. Notwithstanding, this does not prohibit a MPHP participant from working in a pain practice.
- L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner(s)/operator(s) must reapply for an original certificate. The physician owner(s)/operator(s) of the practice shall post the certificate in a conspicuous location so as to be clearly visible to patients. The practice may not continue to operate while the certificate has expired.
- M. The Board shall have the authority to inspect a pain management practice. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

- N. If the Board finds that a registered pain management practice no longer meets any of the requirements to operate as a pain practice, the Board may immediately revoke or suspend the physician's certificate to operate a pain management practice. The physician owner(s)/operator(s) shall have the right to an administrative hearing before the Board at the next available and scheduled meeting of the Board. Further, the Board has the discretion to lift the suspension of a certificate when the practice demonstrates compliance with the Board's rules and regulations.

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

Rule 1.16 Violation of Rules. The prescribing, administering or dispensing of any controlled substance in violation of the above rules shall constitute the administering, dispensing or prescribing of any narcotic drug or other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, in violation of Mississippi Code, Section 73-25-29(3).

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules 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).

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

Rule 1.17 Effective Date of Rules. The above rules pertaining to prescribing, administering and dispensing of medication shall become effective October 31, 1987; as amended November 1, 1990; as amended January 3, 1994; as amended September 10, 1995; as amended June 30, 1996; as amended March 18, 1999; as amended May 20, 1999; as amended February 17, 2001; as amended March 22, 2001; as amended July 15, 2004; as amended October 14, 2004; as amended November 8, 2007; as amended May 15, 2008; as amended March 13, 2009; as amended March 24, 2011; as amended September 17, 2012; as amended September 19, 2013; and as amended May 22, 2014.

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

Part 2645 Rules of Procedure

Part 2645 Chapter 1: Rules of Procedure

Rule 1.1 Scope. The following Rules of Procedure apply to all 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 2645, Chapter 1 only, the following terms have the meanings indicated:

- A. Board means the Mississippi State Board of Medical Licensure.
- B. Mississippi Medical Practice Act means Sections 73-25-1, et seq., pertaining to licensure and discipline of individuals practicing medicine or osteopathic medicine, and Sections 73-27-1, et seq., pertaining to licensure and discipline of individuals practicing podiatric medicine, or any amendments or additions to said statutes which may hereinafter be made.
- C. Licensee or Physician means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
- D. Respondent means a physician against whom a disciplinary proceeding has been initiated.
- E. Complaint Counsel means the attorney retained by the Board to prosecute physicians pursuant to the Mississippi Medical Practice Act.
- F. Executive Director means the chief executive officer or other designee employed by the Board to run the day to day operations of the Board.

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

Rule 1.3 Complaint/Investigation. An investigation of alleged violation(s) of the Mississippi Medical Practice Act may be initiated by the investigative staff of the Board either, (i) in response to a written complaint or adverse information duly received by the Board, or (ii) based on information independently developed by the investigative staff of the Board.

Upon receipt of information indicating a possible violation of the Mississippi Medical Practice Act, the investigative staff with advice and consultation from the Board's Executive Director, shall make an initial determination as to whether the information justifies further investigation. A case may be dismissed without further investigation based on a determination of either, (i) lack of jurisdiction, or (ii) no violation of the Mississippi Medical Practice Act.

During an investigation, the investigative staff may interview and take the statements of witnesses and licensees. During an interview of a licensee, the investigative staff shall inform the licensee of the nature and purpose for the investigation and, if requested, provide licensee with a copy of any written complaint provided, that if anonymity has been requested, all identifying data of the complainant shall be removed.

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

Rule 1.4 Initiation of Disciplinary Action. Upon conclusion of an investigation, the results shall be presented to the Board's Executive Director to determine if there is proper jurisdiction and

violation of the Mississippi Medical Practice Act. The Board's Executive Director may then authorize the issuance of a summons and affidavit, naming the accused licensee as a respondent in the proceedings.

- A. The summons, signed by the Board's Executive Director, shall set forth:
 1. The style of the action.
 2. The name and address of the accused respondent.
 3. The address, date, and time at which the respondent is summoned to appear before the Board.
 4. The specific rules of the Mississippi Medical Practice Act which the respondent is charged with violating.
 5. The actions which the Board has the authority to take, including placing the physician on probation, the terms of which may be set by the Board, suspending his or her right to practice medicine for a time deemed proper by the Board, revoking his or her license, or taking any other action in relation to his or her license as the Board may deem proper under the circumstances.
- B. The affidavit, signed by the investigating officer, shall set forth, in numbered paragraphs, a concise statement of the material facts and allegations to be proven, including:
 1. Facts giving rise to the Board's jurisdiction.
 2. Facts constituting legal cause for administrative action against the respondent.
 3. The statutory provisions alleged to have been violated by the respondent.

The summons and affidavit shall be delivered to the respondent, either through certified mail or by personal service.

The summons shall name a date for hearing not less than thirty (30) days or more than sixty (60) days from the date of the mailing or service of the summons.

The summons and affidavit shall bear the name, address, and telephone number of complaint counsel.

All pleadings, motions or other papers permitted or required to be filed with the Board in connection with a pending disciplinary proceeding shall be filed by personal delivery at or by mail to the office of the Board. A copy of all papers filed with the Board shall be delivered by certified mail or personally served on opposing counsel of record.

All pleadings, motions or other papers shall be submitted on plain white, letter size (8 ½" x 11") bond, with margins of at least one inch on all sides and text double spaced except as to quotations and other matter customarily single spaced; shall bear the style and caption of the case as it appears on the summons and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed in the above paragraph.

The Board may refuse to accept for filing any pleading, motion or other paper not in conformity with the requirements of this rule.

Within fifteen (15) days of service of the summons and affidavit, or such longer time as the Board, on motion of the respondent may permit, the respondent shall answer the summons and

affidavit, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by the respondent shall be deemed proven and established for purposes of adjudication. Any matters or allegations not specifically denied are admitted for the purposes of the hearing. In the event that respondent does not file a response to the affidavit, all matters asserted therein shall be deemed admitted.

Any respondent may be represented before the Board by an attorney at law who (i) is admitted to practice in the state of Mississippi, or (ii) has been given express permission by the Board to appear on behalf of respondent.

Upon service of a summons and affidavit pursuant to the above, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the Board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, affidavits, subpoenas, orders or other process related to the proceeding shall be served on respondent through the designated counsel of record.

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

Rule 1.5 Subpoenas. For the purpose of disciplinary hearings, the Board acting by and through its Executive Director, may subpoena persons and papers on its own behalf and on behalf of a respondent.

Before the Board shall issue on behalf of a respondent any subpoena for persons or papers, the respondent shall:

- A. File with the Board a written request for the issuance of said subpoenas, identifying with certainty the identity and address of all individuals to be subpoenaed, along with a concise description of the records to be subpoenaed with the identity and address of the custodian of said records.
- B. All requests for the issuance of subpoenas shall be filed with the Board sufficiently distant in time to allow for the preparation and mailing of said subpoenas at least fifteen (15) days before the scheduled hearing date. The Board shall not be responsible for the timely receipt of subpoenas issued after the aforementioned deadline.

All subpoenas issued by the Board either on its own behalf or on behalf of a respondent shall be affected by either personal service of process or certified mail.

Any subpoena issued by the Board shall be returnable within ten (10) days to either the Board or other location as specified in the subpoena.

No subpoena shall be issued for the purpose of discovery, the means and manner of discovery being set forth in Part 2645, Rule 1.6.

The Board shall charge a respondent a reasonable fee, not to exceed \$25.00 per subpoena, for preparation and mailing of subpoenas.

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

Rule 1.6 Discovery.

- A. Upon written request by a respondent or his or her counsel, complaint counsel of the Board shall disclose and permit respondent or his or her counsel to inspect, copy or

photograph the following information and material, which is in the possession, custody, or control of the Board, or the existence of which is known to the complaint counsel:

1. Names and addresses of all witnesses proposed to be called in complaint counsel's case in chief, together with a copy of the contents of any statement, written, recorded, or otherwise preserved, of each such witness.
 2. Copy of any written or recorded statement of respondent and the substance of any oral statement made by the respondent.
 3. Copy of any criminal record of a respondent, if proposed to be used.
 4. Any written reports or statements of experts, if proposed to be offered as evidence in connection with the particular case.
 5. All records, documents, physical evidence or photographs which may be offered as evidence in complaint counsel's case in chief.
 6. Any exculpatory material concerning the respondent. The Board shall charge a respondent a reasonable fee, not to exceed 50 cents per copy, payable in advance of delivery of copied documents.
- B. The Board may deny disclosure authorized by the preceding paragraph if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary embarrassment, resulting from such disclosure, which outweighs any usefulness of the disclosure to respondent or his or her counsel.
- C. If respondent requests discovery under this rule, respondent shall, promptly disclose to complaint counsel and permit him or her to inspect, copy or photograph, the following information and material which is in the possession, custody, or control of respondent or his or her counsel, or the existence of which is known to respondent or his or her counsel:
1. Names and addresses of all witnesses proposed to be called in respondent's defense, together with a copy of the contents of any statement, written, recorded, or otherwise preserved, of each such witness.
 2. All records, documents, physical evidence or photographs which may be offered as evidence in respondent's defense.
 3. Any written reports or statements of experts, if proposed to be offered as evidence in connection with the particular case.
- D. No depositions shall be taken in preparation for matters to be heard before the Mississippi State Board of Medical Licensure.

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

Rule 1.7 Amendment of Pleadings. The complaint counsel of the Board may amend a summons and affidavit after being duly served upon respondent at any time prior to the scheduled hearing date, provided, the amendment is for the purpose of correcting a clerical error or clarifying facts set forth in the affidavit. A summons and affidavit may be amended to add additional charges or counts provided the amended summons and affidavit is served upon respondent not less than thirty (30) days from the scheduled hearing date or by mutual agreement of the parties.

A respondent may amend his or her answer as a matter of course at any time before the answer is due. Otherwise, a respondent may amend his or her answer only by leave of the Board. Leave shall be freely given when justice so requires.

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

Rule 1.8 Pre-Hearing Motions. All pre-hearing motions shall be filed not later than fifteen (15) days prior to the scheduled hearing. Said motion shall be accompanied by a memorandum setting forth a succinct explanation of the grounds on which relief is sought. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion.

Within ten (10) days of the filing of any motion, opposing counsel may file a memorandum in opposition to the initial motion.

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

Rule 1.9 Continuances. Hearings shall be held before the full Board at the time and place designated in the summons, unless a continuance is granted for just cause by the Board. A motion for a continuance must be filed with the Board at least fifteen (15) days prior to the scheduled hearing, or upon a showing of good cause, at any time prior to the hearing.

It must be recognized that the Board consists of nine (9) practicing physicians representing various regions of the state. Unlike the judiciary, Board members are not in the business of conducting hearings, therefore hearings will be held only during regularly scheduled meetings or other date established by order of the Board. Attorneys representing physicians should take this fact into consideration. A scheduled hearing may be continued if the respondent shows substantial, legitimate grounds for continuing the hearing, based on the balance of:

- A. The right of respondent to a reasonable opportunity to prepare and present a defense.
- B. The Board's responsibility to protect the public health, safety and welfare.

Where the counsel for respondent has a scheduling conflict on the initial hearing date, continuances will be liberally granted. However, respondent's counsel must submit written proof of the scheduling conflict. Thereafter, no further continuances will be granted based solely on scheduling conflicts.

So that counsel for the respondent and complaint counsel shall be able to adequately prepare for hearing, any motion for a continuance filed within the time limitations specified above, will be immediately considered by the Board's President, who shall have the authority to grant or deny said motion. If granted, the order will be presented to the Board at the scheduled hearing date at which time the order will be formally entered and the rescheduled hearing date set.

It is the responsibility of the respondent to make a prompt decision as to whether to appear before the Board *pro se* (without counsel) or retain counsel for this purpose. Unless due to extraordinary circumstances, the Board will not consider as a valid ground for continuance, the respondent's last minute decision to retain counsel.

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

Rule 1.10 Informal Settlement, Pre-Hearing Stipulations, Consent Orders.

- A. All disciplinary proceedings initiated by the Board shall be brought to a final resolution through one of three means:
 - 1. Disciplinary hearings before the full Board.
 - 2. Acceptance by the Board of a mutually agreeable Consent Order in lieu of hearing.
 - 3. Dismissal of the case.
- B. As to disciplinary proceedings duly noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the Board's President may require, that

an Informal Settlement Conference be held for the purpose of possible resolution, simplifying the issues for hearing or promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

- C. The Informal Settlement Conference shall be conducted by respondent and/or his or her counsel and the complaint counsel. Other parties who may attend include the investigating officer, the Board's Executive Director, or any other party who may contribute to the conference. Board members shall not participate in the Informal Settlement Conference, other than to approve a Consent Order as hereinafter provided.
- D. Discovery or exchange of information may be accomplished during the Informal Settlement Conference.
- E. The Informal Settlement Conference may result in:
 - 1. Dismissal of the case.
 - 2. Return of the case for further investigation.
 - 3. Preparation of a proposed Consent Order as a resolution of the matter.
 - 4. Proceed with the scheduled hearing.
- F. Any action which the Board may take following a full disciplinary hearing may be taken in lieu thereof by Consent Order, duly executed by the respondent. Because of the lengthy dockets before the Board, Informal Settlement Conferences must be held in sufficient time to allow consummation of negotiations of a Consent Order at least ten (10) working days prior to the scheduled hearing date. After the terms of a Consent Order have been prepared, the Board's Executive Director, shall have the authority to accept, reject or modify the terms of a Consent Order. When a mutually acceptable Consent Order has been accepted by the Board's Executive Director, it shall be binding on the Board, but not effective until full Board approval. Notwithstanding, it is still the responsibility of the respondent to personally appear before the Board on the scheduled hearing date to answer any questions which the Board may have prior to full Board approval.
- G. If the parties to the Informal Settlement Conference are unable to reach a mutually agreeable Consent Order and the matter is to proceed to a full Board hearing, the parties shall agree in writing by stipulation, to the following:
 - 1. Any undisputed claims, facts, testimony, documents or issues.
 - 2. Evidence to be introduced without objection.
 - 3. An estimate of the time required for the hearing.

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

Rule 1.11 Formal Hearing.

- A. At a disciplinary hearing, opportunity shall be given to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the matter.
- B. All testimony and other proceedings shall be recorded by a certified stenographer who shall be retained by the Board.
- C. During the disciplinary hearing, the Board's President, acting as the presiding officer, or his or her designee, shall rule on all evidentiary questions, but in his or her discretion may consult with the entire panel in executive session. At such hearing, the Board may be

assisted by the Mississippi Attorney General, or his or her designee, who shall not have been involved in any way with the case otherwise. The Board's presiding officer may delegate ruling on procedural and evidentiary issues to the Attorney General or his or her designee.

- D. In all disciplinary hearings before the Board, the record of the case shall include:
 - 1. The summons and affidavit issued.
 - 2. The Respondent's answer to the summons and affidavit.
 - 3. All pleadings, motions, and rulings issued.
 - 4. Evidence received or considered at the hearing.
 - 5. Offers of proof, objections, and rulings thereon.
 - 6. The Board's order or other disposition made by the Board.
- E. Disciplinary hearings before the Board shall be conducted in the following order:
 - 1. Opening statements.
 - 2. Complaint counsel's case in chief.
 - 3. Respondent's case in chief.
 - 4. Complaint counsel's rebuttal.
 - 5. Closing statements.
- F. Questioning of witnesses shall be conducted in the following order:
 - 1. Direct examination.
 - 2. Cross-examination.
 - 3. Redirect examination.
- G. Upon conclusion of the hearing, the Board shall conduct its deliberations in Executive Session, outside the presence of the parties. The Board shall then render its Determination and Order, setting forth Findings of Fact, Conclusions of Law and Order. Although the Board's decision may be announced immediately following deliberations, the Board shall be provided adequate time for preparation of the written determination and order. A copy of such determination and order shall be sent by certified mail, or served personally upon the respondent. The decision of the Board revoking, suspending or otherwise disciplining respondent shall become final thirty (30) days after so mailed or served unless within said period the respondent appeals the decision to the Chancery Court, as provided by law.

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

Rule 1.12 Reinstatement of License. The procedural requirements enumerated above shall also apply to petition duly filed with the Board seeking reinstatement of a license pursuant to Section 73-25-32, Mississippi Code.

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

Rule 1.13 Effective Date of Rules. The above procedural rules shall become effective June 19, 1995.

The above Rules of Procedure are adopted by the Board to implement its authority to investigate alleged violations of the Mississippi Medical Practice Act, conduct hearings on disciplinary matters, and consider petitions for termination of probationary and suspended licenses and restoration of revoked licenses, all as enumerated in Section 73-43-11, Mississippi Code.

The above Rules of Procedure shall not be interpreted to alter or amend that which is otherwise provided by Mississippi statutory law.

Amended May 17, 2007.

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

Part 2645 Chapter 2: Preservation and Certification of Electronic Records

Rule 2.1 Scope. This regulation applies to all records that come into the Board's possession. The purpose of this regulation is to designate policies and practices for records management in the transition from paper-based to electronic record-keeping in order to facilitate use and admissibility of such records in Board proceedings.

This regulation shall not excuse compliance with any other lawful requirement for the preservation of records for periods longer than those prescribed in this regulation.

While this regulation does not serve to supersede any pre-existing rules concerning the use and admissibility of records, adherence may enhance validity and admissibility of such records into evidence.

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

Rule 2.2 Definitions. The following terms have the meanings indicated:

- A. Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium.
- B. Board means the Mississippi State Board of Medical Licensure.
- C. Custodian means the person who creates, receives or maintains the records for use. Each custodian has the primary responsibility for ensuring the safety of the records, providing access to the records, and ensuring their authenticity.
- D. Data means any material upon which written, drawn, spoken, visual, or electromagnetic information or images are recorded or preserved, regardless of physical form or characteristics.
- E. Database means an electronically stored set of data, consisting of at least one file.
- F. Document means a form of information. A document may be put into an electronic form and stored in a computer as one or more files. A document may be part of a database. Each document is saved as a uniquely named file.
- G. Electronic means relating to technology as having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- H. Electronic record means a record created, generated, sent, communicated, received or stored by electronic means.
- I. Floppy disk means a random access, removable magnetic data storage medium that can be used with computers.
- J. Source Document means the original paper form of a document.

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

Rule 2.3 Electronic storage permitted. In addition to, or instead of, Source Documents in paper, records may be maintained and preserved for the required time by, among other formats:

- A. Micrographic media, including microfilm, microfiche, or any similar medium; or
- B. Electronic storage media, including any digital storage.

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

Rule 2.4 Designation of supervisory official. For the purposes of this regulation, the Executive Director of the Board shall be the Custodian of Board records. Notwithstanding, the Executive Director of the Board shall have the authority to designate separate Custodians for each division of the Board. Each custodian shall supervise the preservation or authorized destruction of records.

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

Rule 2.5 General requirements. The following procedures must be followed by the person who maintains records on behalf of the Board:

- A. *Classification of records.* The custodian shall classify all documents that are electronically stored. Hash values, or unique numerical identifiers, shall be used as a distinguishing trait. Hash values shall be assigned consistently to a file or a group of files based on a standard algorithm.
- B. *When Source Documents are placed in Electronic Storage.* The Source Document, if any, for electronically stored information may be placed in electronic storage at any time when deemed necessary by the Board's executive director. Notwithstanding, no records which have been introduced into evidence before the Board in a licensure or other administrative hearing shall be placed in electronic format if the actions of the Board are still pending, subject to an appeal or other court action.
- C. *Time for destruction of Source Documents.* The Source Document, if any, for electronically stored information may be destroyed after a period of six months, but until such time, must be separately stored. Prior to destruction of any records, the Board Executive Director shall determine that the records have no legal or administrative value.
- D. *Access.* Access to electronic storage media shall be limited to properly authorized personnel.
- E. *Protection from information loss.* The electronically stored information shall be protected against information loss by backup and recovery. The use of floppy disks or other forms of magnetic media not specifically designed for the purpose of long term storage shall be avoided.
- F. *Protection from damage.* Provide reasonable protection from damage by fire, flood, and other hazards for records. Safeguard records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.
- G. *Index of records.* The electronically stored copies shall be indexed and maintained for ready reference and inspection.
- H. *Maintenance of Records.* Regular copying, reformatting, and other necessary maintenance shall be performed to ensure the retention of electronic records.
- I. *Retrieval.* Utilize a formal and timely retrieval process to permit standardized retrieval.
- J. *Reproduction.* Any reproduction of a non-electronic original record on electronic storage media shall be complete, true, and legible.
- K.

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

Rule 2.6 Authenticating Electronic Evidence in Board Proceedings.

- A. *Self-Authentication.* Evidence of authenticity is not required for admissibility in any hearing or other matter before the Board, provided the evidence is either (i) an original or (ii) an electronic reproduction of the original as maintained by the Board.
- B. *Method to self-authenticate.* To be self-authenticating, the record must be accompanied by a written declaration of the designated custodian as provided herein, certifying that the electronic record (i) was made in the normal course and scope of Board business and (ii) by a person with knowledge of those matters. The proponent must show that the custodian of the records is not only familiar with the maintenance of the records, but also with how they are created.

Adopted May 16, 2013.

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

Part 2650 Administrative Rules

Part 2650 Chapter 1: Administrative Rules

Rule 1.1 Method of Operation. Scope

This regulation is promulgated pursuant to Mississippi Code, Section 25-43-2.104 of the Mississippi Administrative Procedures Law.

Description of the Mississippi State Board of Medical Licensure

- A. Reference is made to Title 73, Chapter 43 of the Mississippi Code, which establishes the Mississippi State Board of Medical Licensure (the Board) and sets forth its composition, general powers and duties. Further reference is made to the following additional provisions of Mississippi law:
 - 1. Title 73, Chapter 25, which sets forth the Board's specific powers and duties in relation to licensure and discipline of physicians and osteopaths.
 - 2. Title 73, Chapter 26, which sets forth the Board's specific powers and duties in relation to licensure and regulation of physician assistants.
 - 3. Title 73, Chapter 27, which sets forth the Board's specific powers and duties in relation to licensure and discipline of podiatrists.
 - 4. Title 41, Chapter 58, which sets forth the Board's specific powers and duties in relation to licensure and regulation of radiologist technicians and assistants.
 - 5. Title 41, Chapter 29, which sets forth the Board's specific powers and duties in relation to investigations of potential violations of the Mississippi Controlled Substance Laws.
- B. Rules adopted by the Board pursuant to the various authorities cited above are referred to as the Rules and Regulations of the Mississippi State Board of Medical Licensure. Pursuant to Mississippi Code, Section 73-43-13, the Board employs an Executive Director. The Board's staff is organized into two (2) divisions: Licensure, which addresses matters related to the licensure of physicians, osteopaths, physician assistants, podiatrists, and radiologist technicians and assistants; and, Investigations, which investigates matters or allegations related to the potential violation of any state statute or regulation under the Board's jurisdiction.

Where and How to Obtain Public Information

The text of all Board rules, as well as information regarding pending rules, schedules of meetings and the like may be obtained by visiting the Board's website at www.msbml.ms.gov. Requests for Declaratory Opinions may be made pursuant to Part 2650, Rule 1.3. Otherwise, requests for information may be made pursuant to and in accordance with the Mississippi Open Records Act by submitting written request to the Board's current mailing address.

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

Rule 1.2 Oral Proceedings on Proposed Rules.

A. Scope

This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Mississippi State Board of Medical Licensure (the Board) pursuant to Mississippi Code, Section 25-43-3.104.

B. When Oral Proceedings Will Be Scheduled on Proposed Rules

The Board will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision and agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule. The Board may also schedule an oral proceeding on a proposed rule on its own motion.

C. Request Format

Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8 1/2" by 11"). Requests may be in the form of a letter addressed to the Board and signed by the requestor(s).

D. Notification of Oral Proceeding

The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.

E. Presiding Officer

The President of the Board shall preside at the oral proceeding on a proposed rule.

F. Public Presentations and Participation

1. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
2. Persons wishing to make oral presentations at such a proceeding shall notify the Board at least one business day prior to the proceeding and indicate the general subject of their presentation. For good cause shown, the presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Board.
3. At the proceeding, all those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
4. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
5. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
6. There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion (i) recognize Board members for questions of the participant, or (ii) interrupt or end the participant's time where the orderly conduct of the proceeding so requires. Should the presiding officer recognize a member of the Board for questions during the participant's presentation, additional time will be afforded the participant in making his or her presentation.

G. Conduct of Oral Proceeding

1. Presiding Officer

The presiding officer shall have the authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall:

- i. Call the proceeding to order.
 - ii. Give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Board for the proposed rule.
 - iii. Call on those individuals who have contacted the Board about speaking on or against the proposed rule.
 - iv. Recognize Board members for questions of any participant during their presentation.
 - v. Allow for rebuttal statements following all participants' comments.
 - vi. Adjourn the proceeding.
- ### 2. Physical and Documentary Submissions
- Submission presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Board and become subject to the Open Records Act.
- ### 3. Recording
- The Board will record oral proceedings by stenographic means.

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

Rule 1.3 Declaratory Opinions.

A. Scope

This regulation sets forth the rules of the Mississippi State Board of Medical Licensure (the Board) governing the form and content of requests for declaratory opinions, and the Board's procedures regarding such requests, as required by Mississippi Code, Section 25-43-2.103. This regulation is intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, and may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between this rule and the Mississippi Administrative Procedures Law, the latter will control.

B. Persons Who May Request Declaratory Opinions

Any person with a substantial interest in the subject matter may request a declaratory opinion from the Board by following the procedures set forth in this rule. For purposes of this rule, "substantial interest in the subject matter" means the individual, business, group or other entity making the request is directly affected by the Board's administration of the laws, rules within its jurisdiction. To be a substantial interest, the interest affected by the statute, rule or regulation must be different from the interest of the general public in that same statute, rule or regulation.

C. Subjects Which May Be Addressed in Declaratory Opinions

The Board will issue declaratory opinions regarding the applicability to specified facts of: (i) a statute administered or enforced by the Board; or (ii) a rule or regulation promulgated by the Board.

D. Written Request Required

Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8 1/2" by 11"). Requests may be in the form of a letter addressed to the Board. No oral, telephone or e-mail requests for declaratory opinions will be accepted.

E. Where to Send Requests

All requests must be mailed, hand-delivered or transmitted via facsimile to the Board's current mailing address or current facsimile number.

F. Question Presented

Each request shall contain the following:

1. A full, complete and accurate statement of all relevant facts on which the opinion is requested, presented in a clear and concise manner.
2. A citation to the statute, rule or regulation at issue.
3. The question(s) sought to be answered in the opinion, stated clearly.
4. A suggested proposed opinion from the requestor, stating the answers desired by the petitioner and a summary of the reasons in support of those answers.
5. The identity of all other persons known to the requestor who may be involved in or impacted by the described factual situation, including the relationship of each to the facts, name, mailing address and phone number.
6. A statement that the person seeking the opinion has a substantial interest in the subject matter, and sufficient information to support that statement.

G. Name, Address and Signature of Requestor

Each request must include the full name, telephone number and mailing address of the requestor. All requests must be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in this regulation.

H. Circumstances in Which Declaratory Opinions Will Not Be Issued

The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not limited to:

1. The request is not made with sufficient clarity to facilitate the rendering of a declaratory opinion, or the request does not provide a complete or accurate statement of all relevant facts.
2. There exists pending or anticipated litigation, or a pending administrative or disciplinary action, or other adjudication, which has as its subject the precise question presented to the Board for declaratory opinion, the conclusion of which will resolve the question.
3. The statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request.
4. The facts presented in the request are not sufficient to answer the question presented.
5. The request fails to contain information required by this regulation or the requestor failed to follow the procedures established by this regulation.
6. The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute, rule or regulation on which a declaratory opinion is sought.
7. The facts, whether existing or anticipated, do not support that the requestor will be substantially affected by the application of the statute, rule or regulation.
8. The question presented by the request concerns the legal validity of a statute, rule or regulation.

9. The request is not based upon facts calculated to assist the requestor in the planning of future conduct, but is instead based on past conduct of the requestor in an attempt to determine the effect of the statute, rule or regulation on that past conduct.
10. No clear answer is determinable.
11. The question presented by the request may involve the application of a criminal statute or presents a set of facts which may constitute a crime.
12. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure.
13. The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion.
14. A similar request is pending before the Board or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
15. Where issuance of a declaratory opinion may adversely affect the interests of the state of Mississippi, the Board or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.
16. The question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

I. Time for Board's Response

Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of this regulation, the Board shall, in writing:

1. Issue a declaratory opinion regarding the specific statute, rule or regulation as applied to specific facts presented in the request.
2. Decline to issue a declaratory opinion, stating the reasons for its action.
3. Agree to issue a declaratory opinion by a specific time not later than ninety (90) days after receipt of the written request.

The forty-five (45) day period shall begin running on the first regular business day after the request is received by the Board, excluding legal holidays and weekends.

J. Effective Date of Declaratory Opinions

A declaratory opinion shall not become final until the expiration of sixty (60) days after its issuance. Prior to the expiration of sixty (60) days, the Board may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

K. Notice to Third Parties

The Board may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from individuals, agencies or entities other than the requestor.

L. Public Availability of Requests and Declaratory Opinions

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Mississippi Public Records Act. All declaratory opinions and requests shall be indexed by name of requestor and subject. Declaratory opinions and requests which contain information which is confidential or

exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

M. Effect of a Declaratory Opinion

The Board will not pursue any civil, criminal or administrative action against a person who issued a declaratory opinion from the Board and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Board shall be binding only on the Board and the person to whom an opinion is issued. No declaratory opinion will be used as a precedent for any other transaction or occurrence beyond that set forth by the requesting person.

Adopted November 9, 2006.

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

Part 2650 Chapter 2: Public Records

Rule 2.1 Authority and purpose. "It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records." Section 25-61-1, Miss. Code of 1972.

"[A]ll public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body." Section 25-61-5, Miss. Code of 1972.

The act defines "public record" to include "all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body." Section 25-61-3(b).

The purpose of these rules is to establish the procedures the Board of Medical Licensure will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Board of Medical Licensure and establish processes for both requestors and the Board of Medical Licensure staff that are designed to best assist members of the public in obtaining such access.

The purpose of the act is to provide the public full access to public records concerning the conduct of government. These rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Board of Medical Licensure will be guided by the provisions of the act describing its purposes and interpretation.

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

Rule 2.2 Public body description--Contact information--Public records officer.

(1) The Board of Medical Licensure is a regulatory agency that licenses and regulates the practice of medical, osteopathic and podiatric physicians, as well as physician assistants, radiologist assistants, acupuncturists and limited x-ray machine operators. The Board's central office is located at 1867 Crane Ridge Drive, Suite 200-B, Jackson, MS 39216.

(2) Any person wishing to request access to public records of the Board, or seeking assistance in making such a request should contact the public records officer of the Board:

Public Records Officer

Mississippi State Board of Medical Licensure

1867 Crane Ridge Drive, Suite 200-B

Jackson, MS 39216

(601) 987-3079

(601) 987-4159 (facsimile)

mboard@msbml.ms.gov

Information is also available at the Board's web site at www.msbml.ms.gov.

(3) The public records officer will oversee compliance with the act and these rules, but another Board staff member may process the request. Therefore, these rules will refer to the public records officer or "designee." The public records officer or designee and the Board will provide the fullest assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Board.

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

Rule 2.3 Availability of public records.

(1) *Hours for inspection of records.* Public records are available for inspection and copying during normal business hours of the Board, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the offices of the Board. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the Board.

(2) *Organization of records.* The Board will maintain its records in a reasonably organized manner. The Board will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Board records from Board offices. A variety of records is available on the Board's web site at www.msbml.ms.gov. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(3) *Making a request for public records.*

(a) Any person wishing to inspect or copy public records of the Board should make the request in writing on the Board's request form, or by letter, fax, or e-mail addressed to the public records officer and including the following information:

Name of requestor;

Address of requestor;

Other contact information, including telephone number and any e-mail address;

Identification of the public records adequate for the public records officer or designee to locate the records; and

The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to Rule 1.9 of this policy, standard photocopies will be provided at fifteen (15) cents per page.

(c) A form is available for use by requestors at the office of the public records officer and on-line at www.msbml.ms.gov.

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

Rule 2.4. Processing of public records requests – General.

(1) *Providing access.* The Board acknowledges that “providing access to public records is a duty” and that “any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record” in accordance with these policies. Sections 25-61-1 and 25-61-5. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) *Acknowledging receipt of request.* Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request, stating the reason for the denial in writing.

(3) *Consequences of failure to respond.* If the Board does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) *Records exempt from disclosure.* Some records are exempt from disclosure, in whole or in part. If the Board believes that a record is exempt from disclosure and should be withheld, the public records officer will deny the request in writing as set out in Rule 1.4 (2)(d) above, stating the specific exemption. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(5) *Inspection of records.*

(a) Consistent with other demands, the Board shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the public body to copy.

(b) The requestor must claim or review the assembled records within thirty days of the Board’s notification to him or her that the records are available for inspection or copying. The public body will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the public body to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Board may close the request and refile the

assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) *Providing copies of records.* After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(7) *Providing records in installments.* When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) *Completion of inspection.* When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Board has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) *Closing withdrawn or abandoned request.* When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Board has closed the request.

(10) *Later discovered documents.* If, after the Board has informed the requestor that it has provided all available records, the Board becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

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

Rule 2.5 Processing of public records requests – Electronic records.

(1) *Requesting electronic records.* The process for requesting electronic public records is the same as for requesting paper public records.

(2) *Providing electronic records.* When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record. Costs for providing electronic records are governed by Rule 1.9.

(3) *Customized access to data bases.* With the consent of the requestor, the Board may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The Board may charge the actual cost for such customized access.

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

Rule 2.6 Exemptions. The Public Records Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the Board for inspection and copying:

Academic records exempt from public access, see § 37-11-51.
 Appraisal records exempt from access, see § 31-1-27.
 Archaeological records exempt from public access, see § 39-7-41.
 Attorney work product, examination, exemption, see § 25-1-102.
 Birth Defects Registry, see § 41-21-205.
 Bureau of vital statistics, access to records, see § 41-57-2.
 Charitable organizations, registration information, exemption from public access, see § 79-11-527.
 Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.
 Confidentiality, ambulatory surgical facilities, see § 41-75-19.
 Defendants likely to flee or physically harm themselves or others, see § 41-32-7.
 Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.
 Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.
 Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.
 Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.
 Judicial records, public access, exemption, see § 9-1-38.
 Jury records exempt from public records provisions, see § 13-5-97.
Licensure application and examination records. exemption from Public Records Act, see § 73-52-1.
 Medical examiner, records and reports, see § 41-61-63.
 Personnel files exempt from examination, see § 25-1-100.
 Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.
 Workers' compensation, access to records, see § 71-3-66.
 Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

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

Rule 2.7 Third Party Information. When any person files or submits documents with the Board which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

Any document filed with the Board which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the Board shall notify the person who filed the document. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Section 25-61-9, Miss. Code of

1972.

Any person filing documents with the Board shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The Board shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the Board bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

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

Rule 2.8 Costs of providing public records.

(1) *Costs for paper copies.* Section 25-61-7(1), Miss. Code of 1972, reads as follows: "Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records."

A requestor may obtain standard black and white photocopies for fifteen (15) cents per page and color copies for twenty-five (25) cents per page.

Before the Board begins to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records in an installment before providing that installment.

(2) *Costs for electronic records.* The cost of electronic copies of records shall be ten (10) dollars for information on a CD-ROM. The cost of scanning existing MSBML paper or other non-electronic records is ten (10) cents per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee or system costs allowed under Section 25-61-7(2), Miss. Code of 1972.

(3) *Costs of mailing.* The Board may also charge actual costs of mailing, including the cost of the shipping container.

(4) *Payment.* Payment may be made by cash, check, or money order to the Board.

(5) *Charges for searching, reviewing and redacting.* The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

(6) The Board may require payment in advance for all costs before providing copies or access to records.

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

Rule 2.9 Review of denials of public records.

(1) *Petition for internal administrative review of denial of access.* Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) *Consideration of petition for review.* The public records officer must promptly provide the

petition and any other relevant information to the Board's Executive Director. The Executive Director will immediately consider the petition and either affirm or reverse the denial within two business days following the Board's receipt of the petition, or within such other time as the Board and the requestor mutually agree to.

(3) *Review by the Ethics Commission.* Pursuant to Section 25-61-13, if the Board denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.

(4) *Judicial review.* Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

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

Adopted March 19, 2015.

For Office Use Only	
Date Received	Reviewed By

APPENDIX A

OFFICE BASED SURGERY REGISTRATION FORM (For Levels II and III only)

PLEASE PRINT IN INK OR TYPE

Name: _____			
Last	First	Middle	MS License Number

Indicate how credentialed: _____ Board certification _____ Alternative credentialing

Explain: _____

Primary surgical practice location	Surgical Level(s) (II and/or III)
List physical address of all locations	
1. _____	
2. _____	
3. _____	

List procedures to be performed in office:

(Additional locations and procedures may be listed on a separate page.)

Signature _____

Date _____

RETURN BY MAIL TO:

Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive, Suite 200-B
Jackson MS 39216

APPENDIX B

SURGICAL EVENT REPORT FORM

NOTE: Chapter 15 of the Rules & Regulations of the Mississippi State Board of Medical Licensure requires surgeons to report any surgical event to the Board within 15 days of the event. A "surgical event" is recognized as a potentially harmful or life threatening episode related to either the anesthetic or the surgery. Any "surgical event" in the immediate peri-operative period that must be reported are those which are life-threatening, 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.

Date:	Time:
Name and Title of Person Filing Report:	

Provider Information	
Name of Physician: _____	MS License #: _____
Specialty: _____	Board Certified? Yes <input type="checkbox"/> No <input type="checkbox"/>
Phone: () _____	_____
Address : _____ _____	
Surgical Event (Refer to patient by file number only) Patient File Number: _____	
<i>DO NOT SEND PATIENT MEDICAL RECORDS</i>	
Age of Patient: _____	Sex: Male <input type="checkbox"/> Female <input type="checkbox"/>
Name/Nature of Procedure(s): _____ _____	
Anesthesia/Analgesia (include dosage): _____	
Nature of Surgical Event (e.g., anaphylaxis, syncope, infection, rash, etc.): _____ _____	
Treatment for Event: _____ _____	
Patient Outcome/Disposition: _____	Hospitalized? Yes <input type="checkbox"/> No <input type="checkbox"/>

(Additional information may be given on a separate page.)	

RETURN BY MAIL TO:

Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive, Suite 200-B
Jackson MS 39216

APPENDIX C

ADMINISTRATION/DISPENSATION LOG AND PERPETUAL INVENTORY–SAMPLE

Demerol 50mg/ml Inj. (1ml)
Drug Name and Strength (One drug per page)

Physician Name: Dr. Doolittle

Patient Name or Drug Company and Invoice Number	Patient Address	Date Dispensed/ Order Rec.	Amount Admin./ Dispensed	Amount Ordered & Received	Total On Hand	Comments/method of Disp. IV / IM / PO	Initials
XYZ Drug Company	Invoice #00001	12/1/00	N/A	5	5	Initial Inventory of Stock on hand BOB or COB(Beginning of Business or Close of Business)	CM
John Doe	112 Shady Lane, Jackson MS	02/05/01	50mg	N/A	4	IM	CM
Jane Roe	43 Easy Street, Jackson MS	03/07/01	50mg	N/A	3	IM	CM
Mo Joe	1004 Foraker Ave., Pearl MS	05/09/01	50mg	N/A	2	IM	JW
Flo Joe	1004 Foraker Ave., Pearl MS	09/15/01	25mg	N/A	1	IM (.5ml wasted)	CM / JW
Jack Sprat	#4 Grand Boulevard, Brandon MS	12/01/01	50mg	N/A	0	IM	CM
XYZ Drug Company	Invoice #00002	12/12/01	N/A	5	5	Addition to inventory	CM
John Doe	(not necessary to repeat address on same page)	01/15/02	50mg	N/A	4	IM	JW
Jane Roe		03/02/02	50mg	N/A	3	IM	JW
Moe Joe		06/15/02	50mg	N/A	2	IM	CM
Flo Joe		11/22/02	50mg	N/A	1	IM	JW
N/A	N/A	12/01/02	N/A	N/A	1	DEA Biennial Inventory of Stock on hand (BOB or COB)	CM
Jack Sprat		01/05/03	50mg	N/A	0	IM	CM

APPENDIX D

ADMINISTRATION/DISPENSATION LOG AND PERPETUAL INVENTORY

Drug Name and Strength (One drug per page)

Physician Name:

Patient Name or Drug Company and Invoice Number	Patient Address	Date Dispensed/ Order Rec.	Amount Admin./ Dispensed	Amount Ordered & Received	Total On Hand	Comments/method of Disp. IV / IM / PO	Initials
						Initial Inventory of Stock on hand	

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR REGISTRATION
Appendix E

Primary Physician Owner / Operator Information <small>Please mark with N/A if not applicable</small>		For Office Use Only Date Received:
Primary Owner / Primary Operator Name (as listed on MS Medical License)		MS MEDICAL LICENSE #
DEA Controlled Substance Registration Number	NPI Number National Provider Identifier	Federal Tax ID Number
Pain Practice Address Email address Phone Number(s)		
Documentation of ownership: Please provide copy of your checked Tax form with application	<input type="checkbox"/> Sole Proprietor - IRS Tax Form 1040, Schedule C <input type="checkbox"/> Corporation - IRS Tax Form 1120 or 1120S, Federal & State <input type="checkbox"/> Partnership - IRS Tax Form 1065 <input type="checkbox"/> Other document (Physician Ownship) <input type="checkbox"/> ON FILE (Updated documents will be required every two years beginning 2014) <input type="checkbox"/> This pain practice is not physician owned, this is a practice owned by a licensed hospital, state health department facility or a federally qualified community health clinic, volunteer clinic, a hospice service, or out-patient surgical clinic. (As listed in Rule 1.15 A.5, Please specify type.)	
PRACTICE TYPE:		
Facility Name, Administrator & Contact Information		
TRAINING: Part 2640, Chapter 1, Rule 1.15. H Training Requirements for All Physicians Practicing in Pain Management Medical Practices. Effective July 1, 2014 , physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:		
<input type="checkbox"/> 1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) AND hold a subspecialty certification in pain medicine; <input type="checkbox"/> 2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management; <input type="checkbox"/> 3. board certification in pain medicine by the American Board of Pain Medicine (ABPM); <input type="checkbox"/> 4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or <input type="checkbox"/> 5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in <u>pain management</u> . <i>Only hours obtained in the last two years (July 1, 2013 - June 30, 2015) will be considered.</i>		
<u>Please provide copies of certificates for board certification and / or certificates of completion for CME, Residency or Fellowships. *NOTE - 15 hours of live lecture format, Category 1 CME in pain management is required for every year of pain practice.</u>		

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR REGISTRATION
Appendix E

Pain Management Practice Information <small>Please mark with N/A if not applicable</small>				
Corporate or Legal Name of Pain Practice:				
Physical Address of Pain Clinic (no post office box):				
Mailing Address of Pain Practice:				
Phone Number(s) of Pain Practice				
Designated Contact Person(s) Name and DIRECT phone number and email address				
NAME	TELEPHONE NUMBER	EMAIL ADDRESS		
Level II or III Office Based Surgery performed in your pain practice?				
				Yes
				No
If yes, is this Office Based Surgery Registered with MSBML?				
				Yes
				No
PRACTICE OPERATING HOURS				
TOTAL HOURS				
SUN		TO		
MON		TO		
TUE		TO		
WED		TO		
THU		TO		
FRI		TO		
SAT		TO		
TOTAL HOURS				

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR REGISTRATION
Appendix E

List All Individuals who may be owner(s), principal(s), Officer(s), agents(s), managing employee(s), contract employee(s) and affiliated person(s) - use additional copies of this form if necessary. List All Practitioners/Employees. Provide practice specific protocols for Nurse Practitioners and Physician Assistants (protocol as approved by MSBML) **Please mark fields with N/A if not applicable ❖ Employee Type/Title - examples, clerk, receptionist, aide ❖ Degree examples, M.D., D.O., PA, APRN ❖ Copy this page to submit personnel changes as necessary for Updates.

[illegible]

Owner / Primary Operator Name:

Date: _____

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR REGISTRATION
Appendix E

Do you currently hold an active, unrestricted medical license in Mississippi?	Yes
If the answer to this question is "no", you are not currently eligible to own and operate a pain practice.	No
Are all the owner(s) / operator(s) of the pain practice clinic physicians?	Yes
	No
Have you, any physician co-owner, any physician or physician assistant with whom you employ or contract services ever:	
been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or other listed medications under definitions?	Yes
	No
held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply or sell a controlled substance that has been restricted?	Yes
	No
been subject to disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance?	Yes
	No
have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.	Yes
	No
Have you, or any physician co-owner or physician assistant in this practice, ever been convicted of, pled nolo contendere to, or received deferred adjudication for:	
an offense that constitutes a felony?	Yes
	No
an offense that constitutes a misdemeanor, the facts of which relate to the distribution of illegal prescription drugs or a controlled substance?	Yes
	No
Are you, or any physician co-owner or physician assistant in this practice, a current participant in the Mississippi Professionals Health Program?	Yes
	No
<p>I certify that the information that I have provided on this application is correct. I understand that it is a violation of the Mississippi Medical Practice Act, Miss. Code Ann. Section 73-25-1 et seq., to submit a false or misleading statement to a governmental agency. I acknowledge that the Mississippi Board of Medical Licensure (MSBML) is not authorized to issue a pain management certification if I do not provide all requested information. I certify that I am the person named in this document, and all statements I have made are true.</p> <p>Physician Signature: _____ Date: _____</p>	

Contact Information:

If you have any questions, please Contact the Investigative Division of the Mississippi State Board of Medical Licensure at: 1867 Crane Ridge Drive, Suite 200-B, Jackson, MS 39216 Fax: (601) 987-6822 Tel: (601) 987-0231, Email: PMClinic@msbml.ms.gov

Mail Forms: **MSBML/ Investigative Division - Pain Practice Application, Attn: Carrillo** 1867 Crane Ridge Drive, Ste 200-B, Jackson, MS 39216. Submit original signed documents only, NO facsimile, email or duplicate copies will be accepted.

**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR RENEWAL**

Primary Physician Owner Information <small>Please mark with N/A if not applicable</small>			For Office Use Only Date Received:
Primary Owner / Operator Name (as listed on MS Medical License)			MS MEDICAL LICENSE #
Pain Practice Certificate #	DEA Controlled Substance Registration Number	NPI Number National Provider Identifier	Federal Tax ID Number
Pain Practice Address Email address Phone Number(s)			
Documentation of ownership:	_____ ON FILE (Updated documents will be required every two years beginning 2014) If the appropriate forms had not been provided on initial application for registration, include with this renewal. Failure to provide documentation could delay certificate.		
Not physician owned Practice Type: Examples; Licensed Hospital State Health Dept clinic, etc.			
Facility Name, Administrator & Contact Information			
<i>Please provide copies of certificates of completion for any board certification and / or certificates of completion for CME, Residency or Fellowships. <u>*NOTE - 15 hours of live lecture format, Category 1 CME in pain management is required for every year of pain practice (July 1, 2014 to June 30, 2015).</u> Title 30, Part 2640, Chapter 1, Rule 1.15. H.</i>			
** The main topic of required CME courses should be specific to the practice of Pain Medicine **			
<u>DOCUMENT LIST FOR RENEWAL</u>			
<div style="list-style-type: none; padding-left: 0;"> <input type="checkbox"/> Provide copy of ownership documentation if any changes in ownership had occurred since issuance of Pain registration certificate expiring 06/30/2015. <input type="checkbox"/> Provide copy of ownership documentation if you had not submitted the required IRS Tax form when making initial application. <input type="checkbox"/> If you do not have the appropriate IRS Tax form please submit explanation in writing. <input type="checkbox"/> Provide copies of certificates of completion for the required CME for pain medicine for each practicing physician and physician assistant employed or contracted in this practice. <input type="checkbox"/> DEA certificates of all health professionals with prescriptive authority that have been added to this practice. <input type="checkbox"/> Training certificates for new physicians and physician assistants added to the this practice. <input type="checkbox"/> Report all changes in collaborative practices with Nurse Practitioner and / or Physician Assistant, include an updated protocol. <input type="checkbox"/> Please update All protocols with Nurse Practitioners to follow the sample on MSBML website specific to practicing in a pain practice. </div>			

**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR RENEWAL**

Pain Management Practice Information <small>Please mark with N/A if not applicable</small>	Pain Practice Certificate #
--	------------------------------------

Physical Address of Registered Pain Clinic (no post office box)

Mailing Address of Registered Pain Practice:

Designated Contact Person(s) Name and DIRECT phone number and email address

NAME	TELEPHONE NUMBER	EMAIL ADDRESS

Registered with MSBML for Office Based Surgery? Yes No

PRACTICE OPERATING HOURS

TOTAL HOURS

SUN		TO		
MON		TO		
TUE		TO		
WED		TO		
THU		TO		
FRI		TO		
SAT		TO		
TOTAL HOURS				

Owner / Primary Owner Name:

Date:

**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR RENEWAL**

List All Individuals who may be owner(s), principal(s), Officer(s), agents(s), managing employee(s), contract employee(s) and affiliated person(s) - use additional copies of this form if necessary. List All Practitioners/Employees. Provide practice specific protocols for Nurse Practitioners and Physician Assistants (protocol as approved by MSBML) ❖ Employee Type/Title examples, clerk, receptionist, aide ❖ Degree examples, M.D., D.O., PA, APRN ❖ Copy this page to submit personnel changes as necessary for Updates..

NAME	EMPLOYEE TYPE /TITLE	DEGREE	LICENSE #	DEA#	NPI#	DOB

Owner / Primary Physician Name: _____

Date: _____

**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN PRACTICE APPLICATION FOR RENEWAL**

Do you currently hold an active, unrestricted medical license in Mississippi?	Yes
If the answer to this question is "no", you are not currently eligible to renew registration.	No
From July 1, 2013, to the present, have you, any physician co-owner, any physician or physician assistant with whom you employ or contract services:	
been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or other listed medications under definitions?	Yes
	No
held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply or sell a controlled substance that has been restricted?	Yes
	No
been subject to disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance?	Yes
	No
have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.	Yes
	No
From July 1, 2013, to the present, have you, or any physician co-owner or physician assistant in this practice, ever been convicted of, pled nolo contendere to, or received deferred adjudication for:	
an offense that constitutes a felony?	Yes
	No
an offense that constitutes a misdemeanor, the facts of which relate to the distribution of illegal prescription drugs or a controlled substance?	Yes
	No
Are you, or any physician co-owner, physician or physician assistant in this practice, a current participant in the Mississippi Professionals Health Program?	Yes
	No
<p>I certify that the information that I have provided on this application is correct. I understand that it is a violation of the Mississippi Medical Practice Act, Miss. Code Ann. Section 73-25-1 et seq., to submit a false or misleading statement to a governmental agency. I acknowledge that the Mississippi Board of Medical Licensure (MSBML) is not authorized to issue a pain management certification if I do not provide all requested information. I certify that I am the person named in this document, and all statements I have made are true.</p> <p>Physician Signature: _____ Date: _____</p>	

Contact Information:

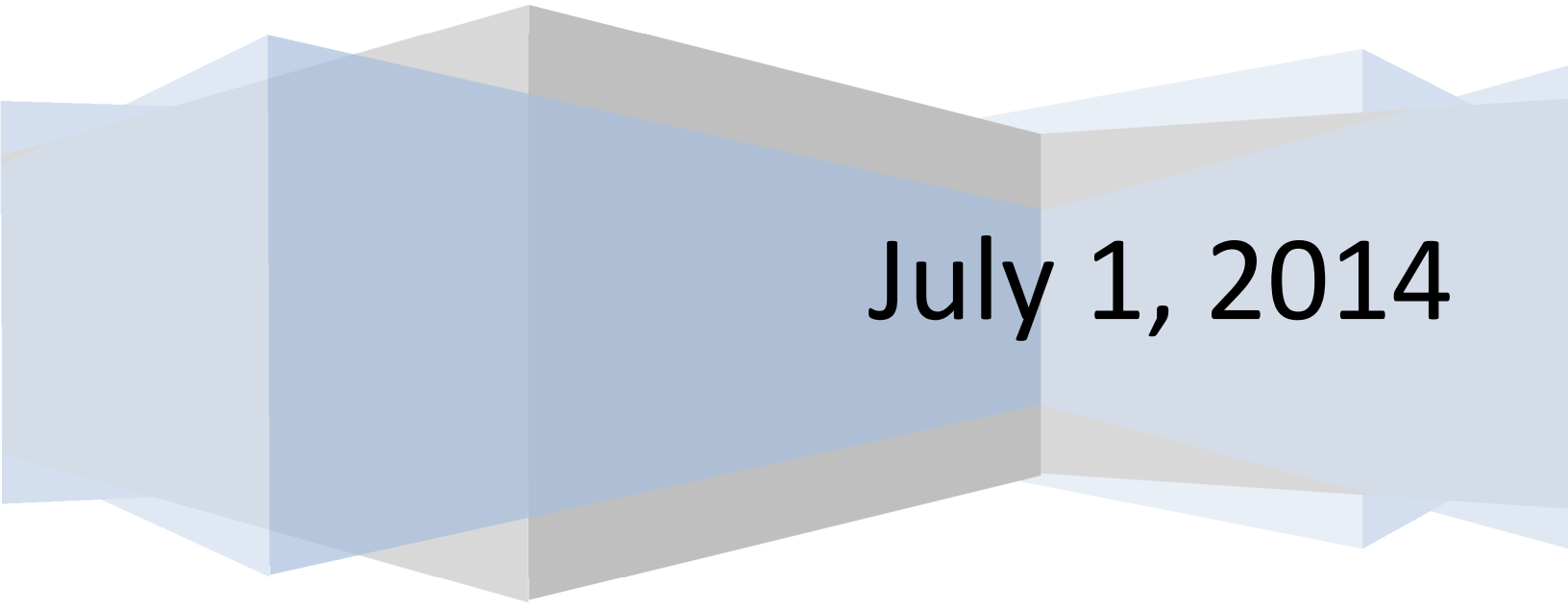
If you have any questions, please Contact the Investigative Division of the Mississippi State Board of Medical Licensure at: 1867 Crane Ridge Drive, Suite 200-B, Jackson, MS 39216 Fax: (601) 987-6822 Tel: (601) 987-0231, Email: PMClinic@msbml.ms.gov

Mail Forms: **MSBML, Attention: Carrillo, Pain Practice Application or Renewal**, 1867 Crane Ridge Drive, Ste 200-B, Jackson, MS 39216. All application material must be official copy where required.

Mississippi State Board of Medical Licensure

Mississippi Code of 1972

As Amended



July 1, 2014

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2.1 DISABLED PHYSICIANS

§73-25-51. SHORT TITLE.

Sections 73-25-51 through 73-25-67 shall be known as the "Disabled Physician Law."

§73-25-53. CONDITIONS WARRANTING RESTRICTION, SUSPENSION OR REVOCATION OF LICENSE.

The license of any physician to practice medicine in this state shall be subject to restriction, suspension or revocation, as hereinafter provided, in case of inability of the licensee to practice medicine with reasonable skill or safety to patients by reason of one of more of the following:

- (a) Mental illness;
- (b) Physical illness, including but not limited to deterioration through the aging process, or loss of motor skill;
- (c) Excessive use or abuse of drugs, including alcohol.

§73-25-55. REFERRAL OF PHYSICIAN TO EXAMINING COMMITTEE.

- (1) If the State Board of Medical Licensure has reasonable cause to believe that a physician licensed to practice medicine in this state is unable to practice medicine with reasonable skill and safety to patients because of a condition described in Section 73-25-53, such Board of Medical Licensure shall cause an examination of such physician to be made as described in subsection (2) of this section and shall, following such examination, take appropriate action within the provisions of Sections 73-25-51 through 73-25-67.
- (2) Examination of a physician under this section shall be conducted by an examining committee as provided in the following:
 - (a) Except as otherwise provided in paragraph (b) below, the Board of Medical Licensure shall refer all cases for such examination to the Mississippi State Medical Association or its constituent bodies for examination by an examining committee as created by such association exclusively for the purpose of such examinations. Such examining committee shall be composed of three (3) practicing physicians and shall include at least one (1) psychiatrist if a question of mental illness is involved.

(b) If the physician to be examined is not a member of the Mississippi State Medical Association, or if the Mississippi State Medical Association is unable or unwilling to act on a referral by the Board of Medical Licensure for examination, the Board shall designate the members of an examining committee. Such examining committee shall be composed of three (3) practicing physicians and shall include at least one (1) psychiatrist if a question of mental illness is involved.

§73-25-57. EXAMINATION OF PHYSICIAN; CONFIDENTIALITY OF RECORDS.

- (1) The examining committee assigned to examine a physician pursuant to referral by the Board under Section 73-25-55 shall conduct an examination of such physician for the purpose of determining the physician's fitness to practice medicine with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and shall report its findings and recommendations to the Board. The committee shall order the physician to appear before the committee for examination and give him ten (10) days' notice of time and place of the examination, together with a statement of the cause for such examination. Such notice shall be served upon the physician either personally or by registered or certified mail with return receipt requested.
- (2) If the examining committee, in its discretion, should deem an independent mental or physical examination of the physician necessary to its determination of the fitness of the physician to practice, the committee shall order the physician to submit to such examination. Any person licensed to practice medicine in this state shall be deemed to have waived all objections to the admissibility of the examining committee's report in any proceedings before the Board under Sections 73-25-51 through 73-25-67 on the grounds of privileged communication. Any physician ordered to an examination before the committee under subsection (2) shall be entitled to an independent mental or physical examination if he makes request therefor.
- (3) Any physician who submits to a diagnostic mental or physical examination as ordered by the examining committee shall have a right to designate another physician to be present at the examination and make an independent report to the Board.
- (4) Failure of a physician to comply with a committee order under subsection (2) to appear before it for examination or to submit to mental or physical examination under this section shall be reported by the committee to the Board, and unless due to circumstances beyond the control of the physician, shall be grounds for suspension by the Board of the physician's license to practice medicine in this state until such time as

such physician has complied with the order of the committee.

- (5) The examining committee may inspect patient records in accordance with the provisions of Section 73-25-28.
- (6) All patient records, investigative reports and other documents in possession of the Board and examining committee shall be deemed confidential and not subject to subpoena or disclosure unless so ordered by the court from which the subpoena issued, but the court, in its discretion, may limit use or disclosure of such records. Notwithstanding, and to encourage the prompt reporting of disabled practitioners, neither the Board nor examining committee shall reveal the identity of any source of information where the source has requested anonymity.

§73-25-59. PHYSICIAN MAY REQUEST RESTRICTION OF LICENSE.

A physician may request in writing to the Board a restriction of his license to practice medicine. The Board may grant such request for restriction and shall have authority, if it deems appropriate, to attach conditions to the licensure of the physician to practice medicine within specified limitations, and waive the commencement of any proceeding under Section 73-25-63. Removal of a voluntary restriction on licensure to practice medicine shall be subject to the procedure for reinstatement of license in Section 73-25-65.

§73-25-61. EXAMINING COMMITTEE TO REPORT FINDINGS AND DETERMINATION.

- (1) The examining committee shall report to the Board its findings on the examination of the physician under Section 73-25-57, the determination of the committee as to the fitness of the physician to engage in the practice of medicine with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and any management that the committee may recommend. Such recommendation by the committee shall be advisory only and shall not be binding on the Board.
- (2) The Board may accept or reject the recommendation of the examining committee to permit a physician to continue to practice with or without any restriction on his license to practice medicine, or may refer the matter back to the examining committee for further examination and report thereon.

- (3) In the absence of a voluntary agreement by a physician under Section 73-25-59 for restriction of the licensure of such physician to practice medicine, any physician shall be entitled to a hearing in formal proceedings before the Board and a determination on the evidence as to whether or not restriction, suspension or revocation of licensure shall be imposed.

§73-25-63. HEARING BEFORE STATE BOARD OF MEDICAL LICENSURE; TEMPORARY SUSPENSION OF LICENSE PENDING HEARING.

- (1) The Board may proceed against a physician under Sections 73-25-51 to 73-25-67 by serving upon such physician at least fifteen (15) days' notice of a time and place fixed for a hearing, together with copies of the examining committee's report and diagnosis. Such notice and reports shall be served upon the physician either personally or by registered or certified mail with return receipt requested.
- (2) At said hearing the physician shall have the right to be present, to be represented by counsel, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board.
- (3) At the conclusion of the hearing, the Board shall make a determination of the merits and may issue an order imposing one or more of the following:
- (a) Make a recommendation that the physician submit to the care, counseling or treatment by physicians acceptable to the Board.
 - (b) Suspend or restrict the license of the physician to practice medicine for the duration of his impairment.
 - (c) Revoke the license of the physician to practice medicine.
- (4) The Board may temporarily suspend the license of any physician without a hearing, simultaneously with the institution of proceedings for a hearing under this section, if it finds that the evidence in support of the examining committee's determination is clear, competent and unequivocal and that his continuation in practice would constitute an imminent danger to public health and safety.
- (5) Neither the record of the proceedings nor any order entered against a physician may be used against him in any other legal proceedings except upon judicial review as provided herein.

§73-25-65. REINSTATEMENT; JUDICIAL REVIEW.

- (1) A physician whose licensure has been restricted, suspended or revoked under Sections 73-25-51 through 73-25-67, voluntarily or by action of the Board, shall have a right, at reasonable intervals, to petition for reinstatement of his license and to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients. Such petition shall be made in writing and on a form prescribed by the Board. Action of the Board on such petition shall be initiated by referral to and examination by the examining committee pursuant to the provisions of Sections 73-25-55 and 73-25-57. The Board may, upon written recommendation of the examining committee, restore the licensure of the physician on a general or limited basis or institute a proceeding pursuant to Section 73-25-63 for the determination of the fitness of the physician to resume his practice.
- (2) All orders of the Board entered under Section 73-25-63(3,4) shall be subject to judicial review by appeal to the chancery court of the county of the residence of the physician involved against whom the order is rendered, within twenty (20) days following the date of entry of the order, said appeal to be taken and perfected in the same manner as appeals from orders of boards of supervisors.

§73-25-67. CIVIL IMMUNITIES.

There shall be no liability on the part of and no action for damages against:

- (a) Any member of the examining committee or the Board for any action undertaken or performed by such member within the scope of the functions of such committee or the Board under Sections 73-25-51 through 73-25-67 when acting without malice and in the reasonable belief that the action taken by him is warranted; or
- (b) Any person providing information to the committee or to the Board without malice in the reasonable belief that such information is accurate.

2.2 DISCIPLINE AT BEHEST OF PHYSICIAN MEMBERS OF STATE BOARD OF MEDICAL LICENSURE

§73-25-81. DEFINITIONS.

For purposes of Sections 73-25-81 through 73-25-95, the "Board" shall mean the physician members of the Mississippi State Board of Medical Licensure who have authority for the licensure and discipline of physicians in the state.

§73-25-83. GROUND FOR DISCIPLINARY ACTION BY BOARD.

The Board shall have authority to deny an application for licensure or other authorization to practice medicine in this state and to discipline a physician licensed or otherwise lawfully practicing within this state who, after a hearing, has been adjudged by the Board as unqualified due to one or more of the following reasons:

- (a) Unprofessional conduct as defined in the physician licensure and disciplinary laws, pursuant to Section 73-25-29;
- (b) Professional incompetency in the practice of medicine or surgery; or
- (c) Having disciplinary action taken by his peers within any professional medical association or society, whether any such association or society is local, regional, state or national in scope, or being disciplined by a licensed hospital or medical staff of said hospital, or the voluntary surrender or restriction of hospital staff privileges while an investigation or disciplinary proceeding is being conducted by a licensed hospital or medical staff or medical staff committee of said hospital. Provided further, anybody taking action as set forth in this paragraph shall report such action to the Board within thirty (30) days of its occurrence.

§73-25-85. APPOINTMENT BY BOARD OF PHYSICIANS TO INVESTIGATE PROFESSIONAL COMPETENCY OF PHYSICIAN.

- (1) In addition to any other investigators the Board employs, the Board shall appoint one or more licensed physicians to act for the Board in investigating the conduct relating to the competency of a physician, whenever disciplinary action is being considered for professional incompetence.
- (2) Any investigator employed by the Board or any licensed physician appointed to act for

the Board may inspect patient records in accordance with the provisions of Section 73-25-28.

§73-25-87. DISCIPLINARY ACTION WHICH BOARD IS AUTHORIZED TO TAKE.

Whenever the Board finds any person unqualified because of any of the grounds set forth in Section 73-25-83, it may enter an order imposing one or more of the following:

- (a) Deny his application for a license or other authorization to practice medicine;
- (b) Administer a public or private reprimand;
- (c) Suspend, limit or restrict his license or other authorization to practice medicine for up to five (5) years, including limiting the practice of such person to, or by the exclusion of, one or more specified branches of medicine, including limitation on hospital privileges;
- (d) Revoke his license or other authorization to practice medicine;
- (e) Require him to submit to care, counseling or treatment by physicians designated by the Board, as a condition for initial, continued or renewal of licensure or other authorization to practice medicine;
- (f) Require him to participate in a program of education prescribed by the Board; or
- (g) Require him to practice under the direction of a physician designated by the Board for a specified period of time.

§73-25-89. TEMPORARY DISCIPLINARY ACTION WITHOUT HEARING.

If the Board determines that evidence in its possession indicates that a physician's continuation in practice or unrestricted practice would constitute an immediate danger to the public, the Board may take any of the same actions on a temporary basis, without a hearing, which it could otherwise take under Sections 73-25-81 through 73-25-95 following a hearing, provided proceedings for a hearing before the Board are initiated simultaneously with such temporary action without a hearing. Provided, further, that in the event of such temporary action without a hearing, a hearing must be held within fifteen (15) days of such action.

§73-25-91. CIVIL AND CRIMINAL IMMUNITIES.

Any entity, organization or person, including the Board, any member of the Board, its agents or employees, and including any entity or organization or its members referred to in Section 73-25-83, acting without malice in making any report or other information available to the Board pursuant to law, or who assists in the organization, investigation or preparation of such report or information, or assists the Board in carrying out any of its duties or functions provided by law shall be immune from civil or criminal liability, except that unlawful disclosure of confidential information possessed by the Board may be a misdemeanor if otherwise so provided by law.

§73-25-93. SUSPENSION, DENIAL, REVOCATION, OR LIMITATION OF PHYSICIAN'S HOSPITAL PRIVILEGES.

- (1) Any hospital licensed pursuant to Sections 41-9-1 et seq. is authorized to suspend, deny, revoke or limit the hospital privileges of any physician practicing or applying to practice therein, if the governing Board of such hospital, after consultation with the medical staff considers such physician to be unqualified because of any of the acts set forth in Section 73-25-83; provided, however, that the procedures for such actions shall comply with the hospital and/or medical staff bylaw requirements for due process.
- (2) There shall be no liability on the part of, and no cause of any action of any nature arising against, any hospital, hospital medical staff or hospital disciplinary body or members thereof, or their agents or employees, for any action taken without malice in carrying out the provisions of Sections 73-25-81 through 73-25-95.

§73-25-95. APPEALS.

Any person against whom disciplinary action is taken pursuant to Sections 73-25-81 through 73-25-95 shall have the right of judicial appeal as provided in Section 73-25-27 relating to judicial appeal of Board decisions. Provided, further, that no such person shall be allowed to practice medicine or deliver health care services in violation of any disciplinary order or action of the Board while any such appeal is pending.

§73-51-1. INJUNCTION TO PROHIBIT UNLICENSED PRACTICE OF PROFESSION.

An action for an injunction may be brought and maintained in the name of any state board authorized to hold examinations and grant licenses to practice any profession to enjoin and

prohibit any person from the practice of any profession required to be licensed by said board, when such person is practicing said profession and has not been granted a license therefor.

§97-23-43. PROFESSION; PRACTICING WITHOUT LICENSE.

If any person shall practice as an attorney and counselor-at-law, or shall practice as a physician or surgeon, or shall practice as a dentist, or shall practice as a pharmacist, without having first been examined and obtained a license as required by law, he shall, on conviction, of the first offense, be punished by a fine of not less than one hundred (\$100.00) dollars or more than two hundred (\$200.00) dollars or by imprisonment in the county jail not less than three months or more than twelve months or both; and such person, upon conviction of the second offense against this section, shall be punished by a fine of not less than two hundred (\$200.00) dollars or more than five hundred (\$500.00) dollars or by imprisonment in the penitentiary not less than one year or more than two years; and such person, upon conviction of any succeeding offense, shall be punished in the discretion of the court; provided, however, that such punishment shall in no case exceed the payment of a fine of five thousand dollars (\$5,000.00) or imprisonment for five years.

2.3 LICENSURE OF PHYSICIANS AND OSTEOPATHS

§73-25-1. DUTY TO OBTAIN LICENSE.

Every person who desires to practice medicine must first obtain a license to do so from the State Board of Medical Licensure, but this section shall not apply to physicians now holding permanent license, the same having been recorded as required by law.

§73-25-3. HOW LICENSE OBTAINED; EDUCATIONAL REQUIREMENTS.

Every person who desires to obtain a license to practice medicine must apply therefor, in writing, to the State Board of Medical Licensure at least ten (10) days before the date of the examination and must be examined by the Board according to the methods deemed by it to be the most practical and expeditious to test the applicants' qualifications. If the applicant is found by the Board, upon examination, to possess sufficient learning in those branches and to be of good moral character, the Board shall issue him a license to practice medicine;

however, no applicant shall be granted a license unless the applicant holds a diploma from a reputable medical college or college of osteopathic medicine that requires a four-year course of at least thirty-two (32) weeks for each session, or its equivalent.

To qualify for a Mississippi medical license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Sections 73-25-29 and 73-25-83. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency.

The Board shall provide to the Department the fingerprints of the applicant, any additional information which may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state

and national criminal history record information on the applicant.

This section shall not apply to applicants for a special volunteer medical license authorized under Section 73-25-18.

§73-25-5. APPLICATION FOR LICENSE.

The application for license must include such information as the State Board of Medical Licensure shall require.

Each application or filing made under this section shall include the Social Security number(s) of the applicant in accordance with Section 93-11-64, Mississippi Code of 1972.

§73-25-7. EXAMINATIONS; WHEN AND WHERE CONDUCTED.

The State Board of Medical Licensure shall meet at the capitol at least once each year for the purpose of examining applicants for license to practice medicine or osteopathic medicine and shall continue in session until all applicants are examined.

§73-25-9. FEES FOR EXAMINATION.

Every person who shall apply for license to practice medicine shall, before he will be entitled to be examined, pay a fee to be set by the State Board of Medical Licensure, not to exceed two hundred fifty dollars (\$250.00).

In addition to fees for examination as provided for above, the State Board of Medical Licensure is authorized to charge applicants an amount equivalent to the cost to the State Board of Medical Licensure of purchasing and administering any national examinations approved by the Federation of State Medical Boards.

§73-25-11. FORM OF LICENSE.

A license to practice medicine shall be of such form and include such information as the State Board of Medical Licensure may prescribe.

§73-25-13. LICENSE MUST BE RECORDED.

Every person who receives a license to practice medicine must file it in the office of the clerk of the circuit court of the county in which he resides or practices, within sixty (60) days from the date of its issuance. When the license is filed, the clerk shall record the same, with his certificate of the filing thereto attached, in a suitable book to be kept in his office for that purpose, upon the payment by the licensee of the fee provided by law; and, when recorded, he shall deliver the original on demand to the licensee.

§73-25-14. ANNUAL RENEWAL OF LICENSE.

- (1) Except as provided in Section 33-1-39, the license of every person licensed to practice medicine or osteopathy in the state of Mississippi shall be renewed annually.

On or before May 1 of each year, the State Board of Medical Licensure shall mail a notice of renewal of license to every physician or osteopath to whom a license was issued or renewed during the current licensing year. The notice shall provide instructions for obtaining and submitting applications for renewal. The State Board of Medical Licensure is authorized to make applications for renewal available via electronic means. 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, but not to exceed Three Hundred Dollars (\$300.00), a portion of which fee shall be used to support a program to aid impaired physicians and osteopaths. The payment of the annual license renewal fee shall be optional with all physicians 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 certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. That renewal shall render the holder thereof a legal practitioner as stated on the renewal form.

- (2) Any physician or osteopath practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for the failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and

shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.

- (3) Any physician or osteopath not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for the failure to renew, by completion of a reinstatement form and upon payment of the arrearages for the previous five (5) years and the renewal fee for the current year.
- (4) Any physician or osteopath who allows his or her license to lapse shall be notified by the Board within thirty (30) days of that lapse.
- (5) Any person practicing as a licensed physician or osteopath during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to penalties provided for violation of the Medical Practice Act, if he or she had not submitted the required reinstatement form and fee within fifteen (15) days after notification by the Board of the lapse.
- (6) Any physician or osteopath practicing in the state of Mississippi whose license has lapsed and is deemed an illegal practitioner under subsection (5) of this section may petition the Board for reinstatement of his or her license on a retroactive basis, if the physician or osteopath was unable to meet the June 30 deadline due to extraordinary or other legitimate reasons, and retroactive reinstatement of licensure shall be granted or may be denied by the Board only for good cause. Failure to advise the Board of change of address shall not be considered a basis of reinstatement.
- (7) None of the fees or fines provided for in this section shall be applicable to the renewal of a special volunteer medical license authorized under Section 73-25-18.
- (8) Fees collected under the provisions of this section shall be used by the Board to defray expenses of administering the licensure provisions of the Medical Practice Act (Title 73, Chapter 25, Mississippi Code of 1972) and to support a program to aid impaired physicians and osteopaths in an amount determined by the Board.
- (9) In order for a physician or osteopath whose medical license has been expired for five (5) years or more to qualify for reinstatement of license, the physician or osteopath must have successfully been cleared for reinstatement through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Sections 73-25-29 and 73-25-83. To assist the Board in

conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency.

The Board shall provide to the Department the fingerprints of the applicant, any additional information that may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

§73-25-15. LOST LICENSE MAY BE SUPPLIED.

If a license to practice medicine be issued and be lost, or if the holder of a license fails to have the same recorded within sixty (60) days as required by law, the State Board of Medical Licensure may, in its discretion, issue a new license.

§73-25-17. TEMPORARY LICENSE.

- (1) Except as otherwise provided in subsections (2) through (5) below, the executive officer of the State Board of Medical Licensure may issue under his signature a temporary license to practice medicine which shall be valid until the next succeeding meeting of the Board for examining applicants; and such license shall show the date of its issuance, otherwise it shall be void. Only one (1) temporary license shall ever be issued to the same person pursuant to this subsection, and it shall always be made to an individual and not to a partnership; provided, however, that the temporary license of a person enrolled in any American Medical Association-approved internship, residency or fellowship program within the state, other than the fellowship program set forth in subsection (3) below, may be renewed annually for the duration of the internship, residency or fellowship program for a period not to exceed five (5) years.
- (2) The State Board of Medical Licensure may issue a temporary license to practice medicine at a youth camp licensed by the State Board of Health to nonresident physicians and retired resident physicians under the provisions of Section 75-74-8.
- (3) The State Board of Medical Licensure may issue a temporary license to practice medicine to physicians who have been admitted for treatment in a drug and/or alcohol treatment program approved by the Board, or who are enrolled in the fellowship of addictionology in the Mississippi State Medical Association Impaired Professionals Program; provided that, if the applicant is a nonresident of the state said applicant shall hold a valid license to practice medicine in another state and the medical licensing authority of that state shall certify to the Board of Medical Licensure in writing that such license is in good standing. A temporary license issued under this subsection shall be valid for a period of ninety (90) days but may be renewed every ninety (90) days for the duration of the fellowship or treatment program, provided that if the applicant discontinues treatment or leaves the fellowship program the temporary license shall automatically become null and void. The Board may rescind or extend this temporary license for cause.

A temporary license issued to a physician under this subsection shall be limited to only the out-patient phase of the treatment program or that period of time necessary to complete the fellowship of addictionology and shall authorize that physician to whom the license is issued to administer treatment and care within the scope of the drug and/or alcohol treatment program or fellowship in an institutional setting and shall not authorize the physician to otherwise practice in this state. A physician licensed under

this subsection shall not apply to the U.S. Drug Enforcement Administration for a controlled substances registration certificate and must be under the supervision of another physician holding a valid and permanent license in this state.

- (4) A physician who has had his permanent license to practice in this state revoked or suspended by the Board due to habitual personal use of intoxicating liquors or narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, may be granted a temporary license pursuant to subsection (3) above, provided the issuance of such a temporary license is not in conflict with the prior disciplinary order of the Board rendered against the physician.
- (5) The applicant applying for a ninety-day temporary license to practice while in treatment in an approved drug and/or alcohol treatment program or while enrolled in the fellowship of addictionology shall pay a fee not to exceed fifty dollars (\$50.00) to the Board. No additional fee shall be charged for an extension.

§75-74-8. TEMPORARY LICENSES FOR NONRESIDENT OR RETIRED PHYSICIANS ... TO PRACTICE AT YOUTH CAMPS.

- (1) Any nonresident physician who is not licensed to practice medicine in this state and any resident physician who is retired from the active practice of medicine in this state may be issued a temporary license by the State Board of Medical Licensure to practice medicine at a youth camp licensed by the State Board of Health under this chapter while serving as a volunteer at such a camp, provided that any such nonresident physician shall hold a valid license to practice medicine in another state and the medical licensing authority of that state shall certify to the Board of Medical Licensure in writing that such license is in good standing, and that any such retired resident physician shall be in good standing with the Board of Medical Licensure.
- (2) A temporary license issued under subsection (1) ... of this section shall authorize the physician ... to whom the license is issued to administer treatment and care within the scope of his training to campers and employees of the youth camp, but shall not authorize the physician ... to otherwise practice in the state. Such temporary license shall be valid only during the time that the physician ... is in residence at the camp, but in no event shall such license be valid for more than ninety (90) days. A new temporary license shall be obtained by a physician ... each time that he serves as a volunteer at a youth camp. The fee for each such license shall be twenty-five dollars (\$25.00), which shall be payable to the Board from which the license is obtained.

§73-25-18. SPECIAL VOLUNTEER MEDICAL LICENSE FOR RETIRED PHYSICIANS.

- (1) There is established a special volunteer medical license for physicians who are retired from active practice and wish to donate their expertise for the medical care and treatment of indigent and needy persons or persons in medically underserved areas of the state. The special volunteer medical license shall be issued by the State Board of Medical Licensure to eligible physicians without the payment of any application fee, examination fee, license fee or renewal fee, shall be issued for a fiscal year or part thereof, and shall be renewable annually upon approval of the Board.
- (2) A physician must meet the following requirements to be eligible for a special volunteer medical license:
 - (a) Completion of a special volunteer medical license application, including documentation of the physician's medical school or osteopathic school graduation and practice history;
 - (b) Documentation that the physician has been previously issued an unrestricted license to practice medicine in Mississippi or in another state of the United States and that he or she has never been the subject of any medical disciplinary action in any jurisdiction;
 - (c) Acknowledgment and documentation that the physician's practice under the special volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in Mississippi or persons in medically underserved areas in Mississippi; and
 - (d) Acknowledgment and documentation that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any medical services rendered under the special volunteer medical license.

§73-25-19. NONRESIDENTS.

Nonresident physicians not holding license from the state shall not be permitted to practice medicine under any circumstances after remaining in the state for five (5) days, except when called in consultation by a licensed physician residing in this state. This section shall not apply to any nonresident physician who holds a temporary license to practice medicine

at a youth camp issued under the provisions of Section 75-74-8 and Section 73-25-17.

§73-25-21. LICENSEES FROM OTHER STATES OR CANADA MAY BE GRANTED LICENSE WITHOUT EXAMINATION; AFFILIATION WITH BOARDS OF MEDICAL EXAMINERS.

The State Board of Medical Licensure may grant license to practice medicine without examination as to learning to graduates in medicine or osteopathic medicine who hold license to practice medicine from another state, provided the requirements in such state are equal to those required by the State Board of Medical Licensure. The State Board of Medical Licensure may affiliate with and recognize for the purpose of waiving examination diplomates of the National Board of Medical Examiners, or the National Board of Examiners for Osteopathic Physicians and Surgeons in granting license to practice medicine in Mississippi. In addition, the Board may grant a license to practice medicine without examination to licentiates of the Medical Council of Canada (LMCC) who are graduates of Canadian medical schools which are accredited by the Liaison Committee on Medical Education, as sponsored by the American Medical Association and the Association of American Medical Colleges, and by the Committee for Accreditation of Canadian Medical Schools, as sponsored by the Canadian Medical Association and the Association of Canadian Medical Colleges.

The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

§73-25-23. LICENSING OF GRADUATES OF FOREIGN MEDICAL SCHOOLS.

The State Board of Medical Licensure is hereby authorized and empowered to grant limited institutional license for the practice of medicine in state institutions to graduates of foreign medical colleges approved by the National Educational Council for Foreign Medical Graduates or its successor, subject to the conditions as set out herein.

Any graduate of a foreign medical college approved by the organizations specified in the foregoing paragraph who is employed or is being considered for employment to practice medicine in one or more Mississippi state-supported institution(s) located in the same county shall make application for license to the State Board of Medical Licensure. The application shall be made on a form prescribed by the Board of Medical Licensure as required by laws of the state of Mississippi. The application shall also state the institution

or institutions in which the applicant has assurance of employment. The State Board of Medical Licensure is hereby authorized to establish minimum standards of qualifications including moral, experience and proficiency for such applicants. The application and the Board's recommendation shall be forwarded to the board of trustees and director of the institution(s) in which the applicant wishes to practice.

Upon receipt of such approved application from the State Board of Medical Licensure, the board of trustees or the governing authority and director of the institution or health center shall submit the application for review to the local medical society, the member of the Board of Trustees of the State Medical Association of that district and the member of the State Board of Medical Licensure of the district in which the institution is located. A formal recommendation from each of these, along with that of the board of trustees and director of the institution, shall become a part of the application, and shall then be returned to the State Board of Medical Licensure. If a majority of the recommendations are in favor of the applicant, the State Board of Medical Licensure may, in its discretion, issue a limited license to practice medicine. The holder of such a license shall be subject to all the laws of the state of Mississippi governing the practice of medicine.

Such license shall be for one (1) year and shall be in such form as the State Board of Medical Licensure shall prescribe, and shall be issued for practice in a particular institution and shall not be endorsable to another state. The license must be renewed annually, after such review as the State Board of Medical Licensure considers necessary. A graduate of a foreign medical school so licensed may hold such limited institutional license no longer than five (5) years. However, any graduate of a foreign medical school so licensed and employed by any state institution on January 1, 1981, shall not be subject to the five-year limitation created hereby. In addition, the State Board of Medical Licensure, in its discretion, may waive the five-year limitation on limited institutional licenses for any graduate of a foreign medical school who holds such license.

It is the intent of this section to enable Mississippi institutions to utilize the services of qualified graduates of foreign medical colleges during the period necessary for them to secure citizenship papers, and to meet other requirements for a regular license, including Educational Council for Foreign Medical Graduates certification. The State Board of Medical Licensure is hereby authorized, in its discretion, to refuse to renew, or to revoke such

limited license if the holder of such license has failed to avail himself of the opportunity to take the examination for regular licensure after becoming eligible for such examination.

The State Board of Medical Licensure may establish reasonable and uniform license fees and shall make such rules and regulations as it considers necessary to carry out the purposes of this section.

The State Board of Medical Licensure is hereby authorized and directed to grant a full license for the practice of medicine to a graduate of a foreign medical school who has previously been granted an institutional license in one or more Mississippi state supported institutions for a twenty-nine-year period of time and who on July 1, 2001, was serving as director of a Mississippi state-supported hospital and who has passed the clinical competency part of the Flex Examination for the state of Mississippi.

§73-25-25. OSTEOPATHS.

Any person desiring to practice osteopathic medicine in this state must first obtain a license from the State Board of Medical Licensure by passing the same examination as those applying to practice medicine. The State Board of Medical Licensure shall also license doctors of osteopathy who meet the conditions of Sections 73-25-17, 73-25-19 or 73-25-21. License to practice osteopathic medicine must be recorded as required by law for license to practice medicine, with like penalty on failure to so record.

§73-25-27. SUSPENSION OR REVOCATION OF LICENSE.

The State Board of Medical Licensure after notice and opportunity for a hearing to the licentiate, is authorized to suspend or revoke for any cause named in this chapter any license it has issued, or the renewal thereof, that authorizes any person to practice medicine, osteopathy, or any other method of preventing, diagnosing, relieving, caring for, or treating, or curing disease, injury or other bodily condition. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall

control.

The notice shall be effected by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days or more than sixty (60) days from the date of the mailing or the service, at which time the licentiate shall be given an opportunity for a prompt and fair hearing. For the purpose of the hearing the Board, acting by and through its executive office, may subpoena persons and papers on its own behalf and on behalf of the licentiate, including records obtained under Section 73-25-28 and Section 73-25-83(c), may administer oaths and the testimony when properly transcribed, together with the papers and exhibits, shall be admissible in evidence for or against the licentiate. At the hearing the licentiate may appear by counsel and personally in his own behalf. Any person sworn and examined as a witness in the hearing shall not be held to answer criminally, nor shall any papers or documents produced by the witness be competent evidence in any criminal proceedings against the witness other than for perjury in delivering his evidence. The Board or its designee, in the conduct of any hearing, shall not be bound by strict laws or rules of evidence. The Board may adopt rules and discovery and procedure governing all proceedings before it. On the basis of any such hearing, or upon default of the licentiate, the Board shall make a determination specifying its findings of fact and conclusions of law. The Board shall make its determination based upon a preponderance of the evidence.

A copy of the determination shall be sent by registered mail or served personally upon the licentiate. The decision of the Board revoking or suspending the license shall become final thirty (30) days after so mailed or served unless within that period the licentiate appeals the decision to the chancery court, under the provisions of this section. The appeal to the chancery court shall be based solely on the record made before the Board. A transcript of the proceedings and evidence, together with exhibits, presented at the hearing before the Board in the event of appeal shall be a part of the record before the chancery court. The chancery court shall dispose of the appeal and enter its decision promptly. The hearing on the appeal may, in the discretion of the chancellor, be tried in vacation. Appeals may be taken to the Supreme Court of the state of Mississippi as provided by law from any final action of the chancery court. No such person shall be allowed to practice medicine in violation of any action of the chancery court affirming, in whole or in part, the determination of the Board, while any such appeal to the Supreme Court is pending.

For the purpose of conducting investigations, the Board, through its executive director, may issue subpoenas to any individual, clinic, hospital, pharmacy or other entity having in its possession papers, documents, medical charts, prescriptions or any other nonfinancial records. Any such subpoenas issued by the executive director shall be made pursuant to an order of the Board entered on its minutes, determined on a case-by-case basis. Investigatory subpoenas, as provided in this section, may be served either by personal process or by registered mail, and upon service shall command production of the papers and documents to the Board at the time and place so specified. The Board shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the Board, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance with the subpoenas or petitions.

For the purpose of conducting hearings, the Board through its executive director may subpoena persons and papers on its own behalf and on behalf of the respondent, including records obtained under Section 73-25-28 and Section 73-25-83(c), may administer oaths, and may compel the testimony of witnesses. Any such subpoenas issued by the executive director shall be made pursuant to an order of the Board entered on its minutes, determined on a case-by-case basis. It may issue subpoenas to take testimony, and testimony so taken and sworn to shall be admissible in evidence for and against the respondent. The Board shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the Board, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance with the subpoenas or petitions.

Unless the court otherwise decrees, a license that has been suspended by the Board for a stated period of time shall automatically become valid on the expiration of that period and a license that has been suspended for an indefinite period shall become again valid if and when the Board so orders, which it may do on its own motion or on the petition of the respondent. A license that has been revoked shall not be restored to validity except: (1) by order of the Board based on petition for reinstatement filed under Section 73-25-32 or (2) by order of the chancery court or Supreme Court following appeal. Any licensee whose license becomes again valid after a period of suspension or after it has been restored to validity by order of the Board or by an order of the court, shall record it again in the office

of the clerk of the circuit court of the county in which he resides in conformity with the requirements of Section 73-25-13. Nothing in this chapter shall be construed as limiting or revoking the authority of any court or of any licensing or registering officer or board, other than the State Board of Medical Licensure, to suspend, revoke and reinstate licenses and to cancel registrations under the provisions of Section 41-29-311.

§73-25-28. RIGHT OF BOARD OF MEDICAL LICENSURE TO EXAMINE RECORDS; RECORDS SUBJECT TO SUBPOENA; CONFIDENTIALITY AND DESTRUCTION OF RECORDS; BOARD TO PROVIDE INFORMATION TO HOSPITALS.

- (1) In any case in which disciplinary action against a medical physician, osteopathic physician or podiatrist is being considered by the State Board of Medical Licensure, the executive officer of the Board, or its investigators accompanied by any member of the Board or any licensed physician or podiatrist appointed to act for the Board, upon reasonable cause as defined below, may enter, at a time convenient to all parties, any hospital, clinic, office of a medical physician, osteopathic physician or podiatrist or emergency care facility to inspect and copy patient records, charts, emergency room records or any other document which would assist the Board in its investigation of a medical physician, osteopathic physician or podiatrist. Reasonable cause shall be demonstrated by allegations of one or more of the following: (a) a single incident of gross negligence; (b) a pattern of inappropriate prescribing of controlled substances; (c) an act of incompetence or negligence causing death or serious bodily injury; (d) a pattern of substandard medical care; (e) a pattern of unnecessary surgery or unindicated medical procedures; (f) disciplinary action taken against a physician or podiatrist by a licensed hospital or by the medical staff of the hospital; (g) voluntary termination by a physician or podiatrist of staff privileges or having restrictions placed thereon; or (h) habitual personal use of narcotic drugs or other drugs having addiction-forming or addiction-sustaining liability, or the habitual personal use of intoxicating liquors or alcoholic beverages, to an extent which affects professional competency. Whether reasonable cause exists shall be determined by the executive officer and executive committee of the Board, and documentation of that determination shall be provided to the hospital, clinic, office or emergency care facility before entry for inspection and copying hereunder.
- (2) A certified copy of any record inspected or copied pursuant to subsection (1) shall be subject to subpoena by the Board to be used as evidence before it in a licensure disciplinary proceeding initiated pursuant to the provisions of Sections 73-25-1 through

73-25-39, 73-25-51 through 73-25-67, 73-25-81 through 73-25-95 and 73-27-1 through 73-27-19, Mississippi Code of 1972. All references to a patient's name and address or other information which would identify the patient shall be deleted from the records unless a waiver of the medical privilege is obtained from the patient.

- (3) All records of the investigation and all patient charts, records, emergency room records or any other document that may have been copied shall be kept confidential and shall not be subject to discovery or subpoena. If no disciplinary proceedings are initiated within a period of five (5) years after the determination of insufficient cause, then the Board shall destroy all records obtained pursuant to this section.
- (4) Notwithstanding any right to privacy, confidentiality, privilege or exemption from public access conferred by this section, Section 73-52-1, or otherwise by statute or at law, the Board shall provide to any hospital, as defined in Section 41-9-3, any and all information it may have concerning any physician who has applied for a license, other than information contained in records exempt from the provisions of the Mississippi Public Records Act of 1983 pursuant to Sections 45-29-1 and 45-29-3, Mississippi Code of 1972, upon receipt by the Board of a written request from the hospital for such information and documentation that the physician has applied for appointment or reappointment to the medical staff of the hospital or staff privileges at the hospital. The Board, any member of the Board, and its agents or employees, acting without malice in providing the documents or information hereunder, shall be immune from civil or criminal liability.

§73-25-29. NONISSUANCE, SUSPENSION, REVOCATION, RESTRICTION, DENIAL OF REINSTATEMENT, OR DENIAL OF RENEWAL OF LICENSE; GROUNDS.

The grounds for the nonissuance, suspension, revocation or restriction of a license or the denial of reinstatement or renewal of a license are:

- (1) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.
- (2) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.
- (3) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.

- (4) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (5) Procuring, or attempting to procure, or aiding in, an abortion that is not medically indicated.
- (6) Conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (7) Obtaining or attempting to obtain a license by fraud or deception.
- (8) Unprofessional conduct, which includes, but is not limited to:
 - (a) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.
 - (b) Knowingly performing any act which in any way assists an unlicensed person to practice medicine.
 - (c) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.
 - (d) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.
 - (e) Obtaining a fee as personal compensation or gain from a person on fraudulent representation a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the Board upon request.
 - (f) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.
 - (g) Failing to identify a physician's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

- (9) The refusal of a licensing authority of another state or jurisdiction to issue or renew a license, permit or certificate to practice medicine in that jurisdiction or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, notwithstanding the pendency of any appeal.
- (10) Surrender of a license or authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this section.
- (11) Final sanctions imposed by the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, based upon a finding of incompetency, gross misconduct or failure to meet professionally recognized standards of health care; a certified copy of the notice of final sanction being prima facie evidence thereof. As used in this paragraph, the term "final sanction" means the written notice to a physician from the United States Department of Health and Human Services, Office of Inspector General or any successor federal agency or office, which implements the exclusion.
- (12) Failure to furnish the Board, its investigators or representatives information legally requested by the Board.
- (13) Violation of any provision(s) of the Medical Practice Act or the rules and regulations of the Board or of any order, stipulation or agreement with the Board.
- (14) Violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2016.

In addition to the grounds specified above, the Board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-

157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

§73-25-30. SUSPENSION OR REVOCATION OF LICENSE; ALTERNATIVE DISCIPLINARY MEASURES; ASSESSMENT OF COSTS.

- (1) The Mississippi State Board of Medical Licensure, in exercising its authority under the provisions of Section 73-25-29, shall have the power to discipline the holder of a license who has been found by the Board in violation of that statute after notice and a hearing as provided by law, and the licensee shall be disciplined as follows:
 - (a) By placing him upon probation, the terms of which may be set by the Board, or
 - (b) By suspending his right to practice for a time deemed proper by the Board, or
 - (c) By revoking his license, or
 - (d) By taking any other action in relation to his license as the Board may deem proper under the circumstances.
- (2) Upon the execution of a disciplinary order by the Board, either following a hearing or in lieu of a hearing, the Board, in addition to the disciplinary powers specified in subsection (1) of this section, may assess the licensee for those reasonable costs that are expended by the Board in the investigation and conduct of a proceeding for licensure disciplinary action, including, but not limited to, the cost of process service, court reporters, witness fees, expert witnesses, investigators, and other related expenses. Money collected by the Board under this section shall be deposited to the credit of the special fund of the Board to reimburse the existing current year appropriated budget.
- (3) An assessment of costs under this section shall be paid to the Board by the licensee, upon the expiration of the period allowed for appeals under Section 73-25-27, or may be paid sooner if the licensee elects. Costs assessed under this section shall not exceed Ten Thousand Dollars (\$10,000.00).
- (4) When an assessment of costs by the Board against a licensee in accordance with this section is not paid by the licensee when due under this section, the licensee shall be prohibited from practicing medicine until the full amount is paid. In addition, the Board may institute and maintain proceedings in its name for enforcement of payment in the

Chancery Court of the First Judicial District of Hinds County. When those proceedings are instituted, the Board shall certify the record of its proceedings, together with all documents and evidence, to the chancery court. The matter shall be heard in due course by the court, which shall review the record and make its determination thereon. The hearing on the matter, in the discretion of the chancellor, may be tried in vacation.

§73-25-31. SUSPENSION OR REVOCATION OF LICENSES; ORDERS AND JUDGMENTS OF BOARD.

Every order and judgment of the Board shall take effect immediately on its promulgation unless the Board in such order or judgment fixes a probationary period for licensee. Such order and judgment shall continue in effect unless upon appeal the court by proper order or decree terminates it earlier. The Board may make public its orders and judgments in such manner and form as it deems proper. It shall in event of the suspension or revocation of a license direct the clerk of the circuit court of the county in which that license was recorded to cancel such record.

§73-25-32. SUSPENSION OR REVOCATION OF LICENSE; REINSTATEMENT.

- (1) A person whose license to practice medicine or osteopathy has been revoked or suspended may petition the Mississippi State Board of Medical Licensure to reinstate this license after a period of not less than 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 Section 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 osteopaths 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 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, that 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, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.
- (4) The investigation shall require the petitioner to undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each petitioner shall submit a full set of the petitioner's fingerprints in a form and manner prescribed by the Board, which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency.

The Board shall provide to the Department the fingerprints of the petitioner, any additional information that may be required by the Department, and a form signed by the petitioner consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the petitioner, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

- (5) The Secretary-Treasurer of the Board of Medical Licensure shall enter into his records of the case all actions of the Board in setting aside a disciplinary penalty under this section and he shall certify notices to the proper court clerk. The clerk shall make such changes on his records as may be necessary.

§73-25-33. PRACTICE OF MEDICINE DEFINED.

The practice of medicine shall mean to suggest, recommend, prescribe, or direct for the use of any person, any drug, medicine, appliance, or other agency, whether material or not material, for the cure, relief, or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound or fracture or other bodily injury or deformity, or the practice of obstetrics or midwifery, after having received, or with the intent of receiving therefor, either directly or indirectly, any bonus, gift, profit or compensation; provided, that nothing in this section shall apply to females engaged solely in the practice of midwifery.

§73-25-34. TELEMEDICINE; LICENSING REQUIREMENTS FOR PRACTICING MEDICINE ACROSS STATE LINES.

- (1) For the purposes of this section, telemedicine, or the practice of medicine across state lines, shall be defined to include any one or both of the following:
 - (a) Rendering of a medical opinion concerning diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent; or
 - (b) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent.
- (2) Except as hereinafter provided, no person shall engage in the practice of medicine across state lines (telemedicine) in this state, hold himself out as qualified to do the same, or use any title, word or abbreviation to indicate to or induce others to believe

that he is duly licensed to practice medicine across state lines in this state unless he has first obtained a license to do so from the State Board of Medical Licensure and has met all educational and licensure requirements as determined by the State Board of Medical Licensure.

- (3) The requirement of licensure as set forth in subsection (2) above shall not be required where the evaluation, treatment and/or the medical opinion to be rendered by a physician outside this state (a) is requested by a physician duly licensed to practice medicine in this state, and (b) the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated.

§73-25-35. REGISTERED NURSES LICENSED AND CERTIFIED AS NURSE PRACTITIONERS.

Registered nurses who are licensed and certified by the Mississippi Board of Nursing as nurse practitioners are not prohibited from such nursing practice, but are entitled to engage therein without a physician's license.

§73-25-37. LIABILITY OF PHYSICIAN, DENTIST, NURSE, EMERGENCY MEDICAL TECHNICIAN, ETC., FOR RENDERING EMERGENCY CARE.

No duly licensed, practicing physician, physician assistant, dentist, registered nurse, licensed practical nurse, certified registered emergency medical technician, or any other person who, in good faith and in the exercise of reasonable care, renders emergency care to any injured person at the scene of an emergency, or in transporting said injured person to a point where medical assistance can be reasonably expected, shall be liable for any civil damages to said injured person as a result of any acts committed in good faith and in the exercise of reasonable care or omissions in good faith and in the exercise of reasonable care by such persons in rendering the emergency care to said injured person.

§73-25-38. IMMUNITY FROM LIABILITY FOR PHYSICIANS ... PROVIDING CHARITABLE MEDICAL CARE.

- (1) Any licensed physician, physician assistant or certified nurse practitioner who voluntarily provides needed medical or health services to any person without the expectation of payment due to the inability of such person to pay for said services shall be immune from liability for any civil action arising out of the provision of such medical or health

services provided in good faith on a charitable basis. This section shall not extend immunity to acts of willful or gross negligence. Except in cases of rendering emergency care wherein the provisions of Section 73-25-37 apply, immunity under this section shall be extended only if the physician ... and patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of payment and that the licensed physician ... shall be immune as provided in this subsection.

- (2) Any licensed physician, physician assistant or certified nurse practitioner assisting with emergency management, emergency operations or hazard mitigation in response to any emergency, man-made or natural disaster, who voluntarily provides needed medical or health services to any person without fee or other compensation, shall not be liable for civil damages on the basis of any act or omission if the physician, physician assistant or nurse practitioner was acting in good faith and within the scope of their license, education and training and the acts or omissions were not caused from gross, willful or wanton acts of negligence.
- (3) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under Section 73-25-18 without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act or omission resulting from the rendering of the medical service unless the act or omission was the result of the physician's gross negligence or wilful misconduct. In order for the immunity under this subsection to apply, there must be a written or oral agreement for the physician to provide a voluntary noncompensated medical service before the rendering of the service by the physician.
- (4) Any physician who is retired from active practice, and who has been previously issued an unrestricted license to practice medicine in any state of the United States or who has been issued a special volunteer medical license under Section 73-25-18, shall be immune from liability for any civil action arising out of any medical care or treatment provided while voluntarily serving as "doctor of the day" for members of the Mississippi State Legislature, legislative or other state employees, or any visitors to the State Capitol on the date of such service. This subsection shall not extend immunity to acts of willful or gross negligence or misconduct.

§73-25-39. BOOKS, BLANKS, AND STATIONERY.

The State Board of Medical Licensure shall, in accordance with the provisions of Section 31-1-1, contract for the acquisition of such books, blanks and stationery as may be needed by it in carrying out the provisions of this chapter. The State Board of Medical Licensure shall deliver to the Secretary of State such record books as the clerks of the circuit court may need, in which to record licenses to practice medicine, to be by him promptly and safely transmitted at the cost of the state to such of said clerks as the Board of Medical Licensure may designate.

§ 73-50-1. LICENSING, CERTIFYING OR REGISTERING MILITARY –TRAINED INDIVIDUALS OR SPOUSES TO LAWFULLY PRACTICE OCCUPATION.

Issuance of license, certificate or registration by occupational licensing board to military-trained or military spouse applicants to lawfully practice occupation in Mississippi under certain circumstances; temporary practice permit.

(1) As used in this section, the term:

(a) "License" means any license (other than a privilege license), certificate or other evidence of qualification that an individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) "Occupational licensing board" means any state board, commission, department or other agency in Mississippi that is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses. For the purposes of this section, the State Department of Education shall be considered an occupational licensing board when issuing teacher licenses under Section 37-3-2.

(2) Notwithstanding any other provision of law, an occupational licensing board shall issue a license, certification or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in Mississippi if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

(a) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification or registration of the occupational licensing board from which the applicant is seeking licensure, certification or registration in this state: completed a military program of training, completed testing or equivalent training and experience as determined by the board, and performed in the occupational specialty.

(b) Has engaged in the active practice of the occupation for which the person is seeking a license, certification or permit from the occupational licensing board in this state for at least two (2) of the five (5) years preceding the date of the application under this section.

(c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this state at the time the act was committed.

(d) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.

(3) Notwithstanding any other provision of law, an occupational licensing board shall issue a license, certification or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in Mississippi if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

(a) Holds a current license, certification or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed the requirements for licensure, certification or registration of the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.

(b) Can demonstrate competency in the occupation through methods as determined by the board, such as having completed continuing education units or having had recent experience for at least two (2) of the five (5) years preceding the date of the application under this section.

(c) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this state at the time the act was committed.

(d) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification or permit.

(e) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification or registration in this state.

(4) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (2) or (3) of this section.

(5) A nonresident licensed, certified or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified

or registered by an occupational licensing board in this state.

(6) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (2) or (3) of this section if that jurisdiction has licensure, certification or registration standards substantially equivalent to the standards for licensure, certification or registration of an occupational licensing board in this state. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification or registration is granted or until a notice to deny a license, certification or registration is issued in accordance with rules adopted by the occupational licensing board.

(7) An occupational licensing board may adopt rules necessary to implement this section.

(8) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification or registration requirements established by an occupational licensing board in this state.

(9) Nothing in this section shall be construed to apply to the practice of law as regulated under Section 73-3-1 et seq.

2.4 LICENSURE OF PHYSICIAN ASSISTANTS

§73-26-1. DEFINITIONS.

As used in the chapter:

(a) “Board” means the State Board of Medical Licensure.

(b) “Physician assistant” means a person who meets the Board’s criteria for licensure as a

physician assistant and is licensed as a physician assistant by the Board. Nothing in this chapter authorizes the licensure of anesthesiologist's assistants.

- (c) "Supervising physician" means a doctor of medicine or a doctor of osteopathic medicine who holds an unrestricted license from the Board, and who is in the full-time practice of medicine and who has been approved by the Board to supervise physician assistants.
- (d) "Supervision" means overseeing and accepting responsibility for the medical services rendered by a physician assistant in a manner approved by the Board.

§73-26-3. LICENSING AND REGULATION; MINIMUM REQUIREMENTS. [SUBSECTION (5) REPEALED EFFECTIVE JULY 1, 2016.]

- (1) The State Board of Medical Licensure shall license and regulate the practice of physician assistants in accordance with the provisions of this chapter.
- (2) All physician assistants who are employed as physician assistants by a Department of Veterans Affairs health care facility, a branch of the United States military, or the Federal Bureau of Prisons, and who are practicing as physician assistants in a federal facility in Mississippi on July 1, 2000, and those physician assistants who trained in a Mississippi physician assistant program and have been continuously practicing as a physician assistant in Mississippi since 1976, shall be eligible for licensure if they submit an application for licensure to the Board by December 31, 2000. Physician assistants licensed under this subsection will be eligible for license renewal so long as they meet standard renewal requirements.
- (3) Before December 31, 2004, applicants for physician assistant licensure, except those licensed under subsection (2) of this section, must be graduates of physician assistant educational programs accredited by the Commission on Accreditation of Allied Health Educational Programs or its predecessor or successor agency, have passed the certification examination administered by the National Commission on Certification of Physician Assistants (NCCPA), have current NCCPA certification, and possess a minimum of a baccalaureate degree. Physician assistants meeting these licensure requirements will be eligible for license renewal so long as they meet standard renewal requirements.
- (4) On or after December 31, 2004, applicants for physician assistant licensure must meet all of the requirements in subsection (3) of this section and, in addition, must have obtained a minimum of a master's degree in a health-related or science field.

- (5) Applicants for licensure who meet all licensure requirements except for the master's degree may be granted a temporary license by the Board so long as they can show proof of enrollment in a master's program that will, when completed, meet the master's degree requirement. The temporary license will be valid for no longer than one (1) year, and may not be renewed. This subsection shall stand repealed on July 1, 2016.
- (6) For new graduate physician assistants and all physician assistants receiving initial licenses in the state, except those licensed under subsection (2) of this section, supervision shall require the on-site presence of a supervising physician for one hundred twenty (120) days.
- (7) To qualify for a Mississippi physician assistant license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency.

The Board shall provide to the Department the fingerprints of the applicant, any additional information that may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the

fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

§73-26-5. RULES AND REGULATIONS; APPOINTMENT OF TASK FORCE.

- (1) The Board shall promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of physician assistants. Those rules shall include, but are not limited to: qualifications for licensure for physician assistants; scope of practice of physician assistants; supervision of physicians assistants; identification of physician assistants; grounds for disciplinary actions and discipline of physician assistants, which through June 30, 2016, shall specifically include discipline for violation(s) of the provisions of Sections 41-121-1 through 41-121-9 relating to deceptive advertisement by health care practitioners; and setting and charging reasonable fees for licensure and license renewals for physician assistants. However, nothing in this chapter or in rules adopted by the Board shall authorize physician assistants to administer or monitor general inhaled anesthesia, epidural anesthesia, spinal anesthesia, or monitored anesthesia as utilized in surgical procedures. The Board shall promulgate rules for licensure and license renewals in accordance with Section 33-1-39.
- (2) If the Board appoints a task force or committee to address physician assistant regulation, at least one (1) member of the task force shall be a nurse practitioner who is a member of the Mississippi Board of Nursing or a nurse practitioner appointee selected by the Board from a list of three (3) recommendations submitted by the Mississippi Nurses Association, and at least one (1) member shall be a physician assistant selected by the Board from a list of three (3) recommendations submitted by the Mississippi Academy of Physician Assistants.

This act shall take effect and be in force from and after July 1, 2000.

§43-21-353. DUTY TO INFORM STATE AGENCIES AND OFFICIALS.

- (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor. Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the Department of Human Services shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The Department of Human Services shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the Department within seventy-two (72) hours and shall update such report as information becomes available.
- (2) Any report to the Department of Human Services shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries and any other information that might be helpful in establishing the cause of the injury and the identity of the perpetrator.
- (3) The Department of Human Services shall maintain a statewide incoming wide-area telephone service or similar service for the purpose of receiving reports of suspected cases of child abuse; provided that any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer or public or private school employee who is required to report under subsection (1) of this section shall report in the manner required in subsection (1).

- (4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261, shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.
- (5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Human Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the Department:
- (a) The name and address of the child;
 - (b) The names and addresses of the parents;
 - (c) The name and address of the suspected perpetrator;
 - (d) The names and addresses of all witnesses, including the reporting party if a material witness to the abuse;
 - (e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and
 - (f) What, if any, action is being taken by the Department of Human Services.

- (6) In any investigation of a report made under this chapter of the abuse or neglect of a child as defined in Section 43-21-105(m), the Department of Human Services may request the appropriate law enforcement officer with jurisdiction to accompany the Department in its investigation, and in such cases the law enforcement officer shall comply with such request.
- (7) Anyone who willfully violates any provision of this section shall be, upon being found guilty, punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not to exceed one (1) year, or both.
- (8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the Department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the Department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

2.5 LICENSURE OF PODIATRISTS

§73-27-1. PODIATRY DEFINED.

- (1) The practice of podiatric medicine is that profession concerned with the prevention, examination, diagnosis and medical, surgical and adjuvant treatment of conditions of the human foot. For the purposes of this chapter, "foot" means that part of the human

anatomy which consists of the tarsal bones, metatarsal bones and phalanges.

- (2) A podiatrist is a medical care provider who engages in the practice of podiatric medicine.
- (3) A podiatrist may prescribe and administer drugs and tests, excluding general and spinal anesthesia, that are essential to the practice of podiatric medicine when used for or in connection with treatment of disorders of the human foot.

This act shall take effect and be in force from and after April 27, 2000.

§73-27-3. BOARD OF MEDICAL LICENSURE TO EXAMINE.

- (1) The State Board of Medical Licensure shall examine all applicants as hereinafter provided in this chapter.
- (2) There is established the Podiatry Advisory Committee to the State Board of Medical Licensure. The advisory committee shall be composed of three (3) licensed and practicing podiatrists in the state of Mississippi. The members of the advisory committee shall be appointed by the executive director of the Board from a list of six (6) podiatrists recommended by the Mississippi Podiatric Medical Association who have practiced in the state for not less than three (3) years immediately before their appointment. The podiatrists appointed to the advisory committee shall serve for terms of three (3) years from the time of their appointment. Any vacancy occurring on the advisory committee before the expiration of a term shall be filled by appointment of the executive director of the Board from a list of at least two (2) podiatrists recommended by the Mississippi Podiatric Medical Association who have practiced in the state for not less than three (3) years immediately before their appointment. Any appointment to fill a vacancy shall be only for the remainder of the unexpired term.
- (3) The Podiatry Advisory Committee shall advise and make recommendations to the State Board of Medical Licensure on all podiatry matters that come before the Board. The Board shall allow the advisory committee sufficient time to adequately prepare any materials or other information that the committee wants to present or deliver to the Board on any matter or issue affecting podiatry. The Board shall not make any final decision or take any final action on any podiatry matter until the Board has reviewed any materials or other information presented or delivered to it by the advisory committee, provided that the information is delivered within the time period prescribed by the Board.

This act shall take effect and be in force from and after July 1, 1998.

§73-27-5. QUALIFICATIONS.

All applicants for license shall have attained the age of twenty-one (21) years, and shall be of good moral character; they shall have had at least four (4) years high school and be graduates of same; they shall have at least one (1) year prepodiatry college education and be graduates of some college of podiatry recognized as being in good standing by the State Board of Medical Licensure. No college of podiatry or chiropody shall be accredited by the Board as a college of good standing that does not require for graduation a course of study of at least four (4) years (eight and one-half (8 ½) months each) and be recognized by the Council on Education of the American Podiatry Association. However, all podiatrists actively engaged in the practice of podiatry in the state of Mississippi, prior to January 1, 1938, whether graduates or not, shall, upon furnishing proof thereof by displaying their state privilege tax license to the Secretary of the State Board of Medical Licensure, and upon payment of fee of Ten Dollars and Twenty-five Cents (\$10.25), be entitled to a license without an examination, and applications for the license shall be filed not later than sixty (60) days after the passage of this chapter. Upon payment of a fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), a license without examination may be issued to podiatrists of other states maintaining equal statutory requirements for the practice of podiatry and extending the same reciprocal privileges to this state. The State Board of Medical Licensure may affiliate with the National Board of Chiropody or Podiatry Licensure in granting licenses to practice podiatry in Mississippi, provided the written examination covers at least two-thirds (2/3) of the subjects set forth in Section 73-27-9. The issuance of a license by reciprocity to a military-trained applicant or military spouse shall be subject to the provisions of Section 73-50-1.

To qualify for a Mississippi podiatry license, an applicant must have successfully been cleared for licensure through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-27-13. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board, which shall be forwarded to the Mississippi Department of Public Safety

(Department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency.

The Board shall provide to the Department the fingerprints of the applicant, any additional information that may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

§73-27-7. EXAMINATIONS; WHEN HELD.

All examinations shall be held concurrently with the regular examinations of the State Board of Medical Licensure.

§73-27-9. EXAMINATIONS; FEES; SUBJECTS; MINIMUM REQUIREMENTS FOR LICENSES; RE-EXAMINATION.

Any person not exempt from examination under Section 73-27-5, Mississippi Code of 1972, and desiring a license to practice podiatry shall, upon application to the State Board of Medical Licensure and payment of a fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), be examined in the following subjects: anatomy, histology, physiology, chemistry, pharmacy, materia medica, therapeutics, bacteriology, pathology, surgery, dermatology, neurology, physical therapy, diagnosis and roentgenology, orthopedics, chiropody and chiropodical surgery, limited in their scope to the treatment of the human foot and leg, and if found qualified shall receive a license. The minimum of requirements for license shall be a general average of seventy-five percent (75%) of all the subjects involved, provided that a grade of not less than sixty percent (60%) be made on any one (1) subject or branch given in the examination held. Applicants examined and being refused a license shall be entitled to reexamination upon payment of an additional fee prescribed by the State Board of Medical Licensure, not to exceed Five Hundred Dollars (\$500.00), for each examination.

§73-27-11. LICENSE; RECORDED; DISPLAYED.

All licenses shall be recorded in the office of the circuit clerk in which the licensee practices within sixty days from date of issuance. All licenses shall be conspicuously displayed at the offices or other places of practice.

§73-27-12. ANNUAL RENEWAL OF LICENSE.

- (1) Except as provided in Section 33-1-39, the license of every person licensed to practice podiatry in the state of Mississippi shall be renewed annually.

On or before May 1 of each year, the Board shall mail a notice of renewal of license to every podiatrist to whom a license was issued or renewed during the current licensing year. The notice shall provide instructions for obtaining and submitting applications for renewal. The State Board of Medical Licensure is authorized to make applications for renewal available via electronic means. 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, but

not to exceed Three Hundred Dollars (\$300.00), a portion of which fee shall be used to support a program to aid impaired podiatrists. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. That renewal shall render the holder thereof a legal practitioner as stated on the renewal form.

- (2) Any podiatrist practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) may be reinstated by the Board on satisfactory explanation for the failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.
- (3) Any podiatrist not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in subsection (1) 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 arrearages for the previous five (5) years and the renewal fee for the current year.
- (4) Any podiatrist who allows his or her license to lapse shall be notified by the Board within thirty (30) days of that lapse.
- (5) Any person practicing as a licensed podiatrist during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to penalties set forth in Section 73-27-17, provided that he or she has not submitted the required reinstatement form and fee within fifteen (15) days after notification by the Board of the lapse.
- (6) Any podiatrist practicing in the state of Mississippi whose license has lapsed and is deemed an illegal practitioner under subsection (5) of this section may petition the Board for reinstatement of his or her license on a retroactive basis, if the podiatrist was unable to meet the June 30 deadline due to extraordinary or other legitimate reasons, and retroactive reinstatement of licensure shall be granted or may be denied by the Board only for good cause. Failure to advise the Board of change of address shall not be considered a basis for reinstatement.
- (7) Fees collected under the provisions of this section shall be used by the Board to defray expenses of administering the licensure provisions of Title 73, Chapter 27, Mississippi Code of 1972, and to support a program to aid impaired podiatrists in an amount

determined by the Board.

- (8) In order for a podiatrist whose podiatric medical license has been expired for five (5) years or more to qualify for reinstatement of license, the podiatrist must have successfully been cleared for reinstatement through an investigation that shall consist of a determination as to good moral character and verification that the prospective licensee is not guilty of or in violation of any statutory ground for denial of licensure as set forth in Section 73-27-13. To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose.

Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency.

The Board shall provide to the Department the fingerprints of the applicant, any additional information that may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories.

The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in requesting and obtaining state and national criminal history records information on the applicant.

§73-27-13. REFUSAL TO ISSUE LICENSE; SUSPENSION; REVOCATION.

- (1) The State Board of Medical Licensure may refuse to issue, suspend, revoke or otherwise restrict any license provided for in this chapter, with the advice of the advisory committee, based upon the following grounds:
 - (a) Habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability.
 - (b) Habitual use of intoxicating liquors, or any beverage, to an extent which affects professional competency.
 - (c) Administering, dispensing or prescribing any narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice.
 - (d) Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or any drug considered a controlled substance under state or federal law.
 - (e) Performing any medical diagnosis or treatment outside the scope of podiatry as defined in Section 73-27-1.
 - (f) Conviction of a felony or misdemeanor involving moral turpitude.
 - (g) Obtaining or attempting to obtain a license by fraud or deception.
 - (h) Unprofessional conduct, which includes, but is not limited to:
 - (i) Practicing medicine under a false or assumed name or impersonating another practitioner, living or dead.
 - (ii) Knowingly performing any act which in any way assists an unlicensed person to practice podiatry.
 - (iii) Making or willfully causing to be made any flamboyant claims concerning the licensee's professional excellence.
 - (iv) Being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public.
 - (v) Obtaining a fee as personal compensation or gain from a person on

fraudulent representation a disease or injury condition generally considered incurable by competent medical authority in the light of current scientific knowledge and practice can be cured or offering, undertaking, attempting or agreeing to cure or treat the same by a secret method, which he refuses to divulge to the Board upon request.

(vi) Use of any false, fraudulent or forged statement or document, or the use of any fraudulent, deceitful, dishonest or immoral practice in connection with any of the licensing requirements, including the signing in his professional capacity any certificate that is known to be false at the time he makes or signs such certificate.

(vii) Failing to identify a podiatrist's school of practice in all professional uses of his name by use of his earned degree or a description of his school of practice.

(i) The refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice podiatry in that state or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts practice in that state.

(j) Violation(s) of the provisions of Section 1 through 5 of this act relating to deceptive advertisement by health care practitioners. This paragraph shall stand repealed on July 1, 2016.

(2) Upon the nonissuance, suspension or revocation of a license to practice podiatry, the Board may, in its discretion and with the advice of the advisory committee, reissue a license after a lapse of six (6) months. No advertising shall be permitted except regular professional cards.

(3) In its investigation of whether the license of a podiatrist should be suspended, revoked or otherwise restricted, the Board may inspect patient records in accordance with the provisions of Section 73-25-28.

(4) In addition to the grounds specified in subsection (1) of this section, the Board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any

conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

This act shall take effect and be in force from and after July 1, 1998.

§73-27-15. PRACTICING WITHOUT LICENSE.

It shall be unlawful for any person to profess to be a podiatrist, to practice or assume the duties incident to podiatry without first obtaining from the Mississippi State Board of Medical Licensure a license authorizing the practice of podiatry in this state, except as otherwise provided by this chapter.

§73-27-16. REINSTATEMENT OF REVOKED OR SUSPENDED LICENSES.

- (1) A person whose license to practice podiatry has been revoked or suspended may petition the Mississippi State Board of Medical Licensure to reinstate this license after a period of not less than 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 Section 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 podiatrists 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.

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 is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary. Any final action by the Board on a petition under this section shall be made with the advice of the advisory committee.

- (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, the offense for which he was disciplined, his activity during the time his certificate was in good standing, his general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.
- (4) The Secretary-Treasurer of the Board of Medical Licensure shall enter into his records of the case all actions of the Board of Medical Licensure in setting aside a disciplinary penalty under this section and he shall certify notices to the proper court clerk. The clerk shall make such changes on his records as may be necessary.

This act shall take effect and be in force from and after July 1, 1998.

§73-27-17. PENALTY.

Any person who shall violate any of the provisions of this chapter shall, on conviction, of the first offense, be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment in the county jail not more than three (3) months or both; and such person, upon conviction of the second offense against this chapter, shall be punished by a fine of not less than two hundred dollars (\$200.00) or more than five hundred dollars (\$500.00) or by imprisonment in the penitentiary not less than one (1) year or more than two (2) years; and such person, upon conviction of any succeeding offense, shall be punished in the discretion of the court; provided, however, that such punishment shall in no case exceed the payment of a fine of five thousand dollars (\$5,000.00) or imprisonment for five years.

§73-27-19. EXCEPTIONS.

This chapter shall not apply to physicians or surgeons licensed to practice medicine or osteopathy in the state of Mississippi, nor to physicians or surgeons of the United States Army, Navy or the United States Public Health Service, when in actual performance of their duties or to legally registered podiatrists of another state taking charge of the practice of a locally registered podiatrist of this state, temporarily during the latter's absence therefrom, by written permission of the Secretary of the State Board of Medical Licensure.

2.6 LICENSURE OF RADIOLOGIST ASSISTANTS

§41-58-7. STATE BOARD OF MEDICAL LICENSURE AUTHORIZED TO LICENSE AND REGULATE PRACTICE OF RADIOLOGIST ASSISTANTS; RADIOLOGISTS AUTHORIZED TO USE SERVICES OF RADIOLOGIST ASSISTANTS TO PRACTICE RADIOLOGY ASSISTANCE UNDER THEIR SUPERVISION; BOARD SHALL PROMULGATE RULES AND REGULATIONS INCLUDING QUALIFICATIONS FOR LICENSURE, SCOPE OF PRACTICE, DISCIPLINE, AND FEES; REQUIREMENTS FOR LICENSURE; RADIOLOGIST ASSISTANTS PROHIBITED FROM INTERPRETING IMAGES, MAKING DIAGNOSES, OR PRESCRIBING MEDICATIONS OR THERAPIES.

- (1) The State Board of Medical Licensure shall license and regulate the practice of radiologist assistants in accordance with the provisions of this section.
- (2) A radiologist may use the services of a radiologist assistant to practice radiology assistance under the supervision of the radiologist, provided that the radiologist assistant is duly qualified and licensed as provided in this section.
- (3) The Board shall promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and enforce the provisions of law regulating the practice of radiologist assistants. Those rules and regulations shall include, but are not limited to: qualifications for licensure for radiologist assistants; scope of practice of radiologist assistants; supervision of radiologist assistants; identification of radiologist assistants; grounds for disciplinary actions and discipline of radiologist assistants; and setting and charging reasonable fees for licensure and license renewals for radiologist assistants.
- (4) Those rules and regulations adopted by the Board pertaining to the scope of practice and the educational qualifications necessary to practice as a radiologist assistant shall be consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.
- (5) Applicants for licensure as a radiologist assistant must be:
 - (a) credentialed to provide radiology services under the supervision of a radiologist;
 - (b) a radiologic technologist registered under Sections 41-58-1 through 41-58-5; and
 - (c) certified and registered with the American Registry of Radiologic Technologists.
- (6) A radiologist assistant may not interpret images, make diagnoses or prescribe medications or therapies.

This act shall take effect and be in force from and after its passage.

2.7 MEDICAL RADIATION TECHNOLOGY

§41-58-1. DEFINITIONS. [REPEALED EFFECTIVE JULY 1, 2015].

As used in this chapter:

- (a) "Department" means the Mississippi State Department of Health.
- (b) "Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, chiropractic, osteopathy or podiatry, or a licensed nurse practitioner or physician assistant.
- (c) "Ionizing radiation" means x-rays and gamma rays, alpha and beta particles, high speed electrons, neutrons and other nuclear particles.
- (d) "X-radiation" means penetrating electromagnetic radiation with wavelengths shorter than ten (10) nanometers produced by bombarding a metallic target with fast electrons in a vacuum.
- (e) "Supervision" means responsibility for, and control of, quality radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.
- (f) "Medical radiation technology" means the science and art of applying ionizing radiation to human beings for diagnostic and/or therapeutic purposes. The four (4) specialized disciplines of medical radiation technology are diagnostic radiologic technology, nuclear medicine technology, radiation therapy and limited x-ray machine operator.
- (g) "Radiologic technologist" means a person other than a licensed practitioner who has passed a national certification examination recognized by the department such as the American Registry of Radiologic Technologists examination or its equivalent, who applies x-radiation or ionizing radiation to any part of the human body for diagnostic purposes and includes the administration of parenteral and enteral contrast media and administration of other medications or procedures incidental to radiologic examinations.
- (h) "Nuclear medicine technologist" means a person other than a licensed practitioner who

has passed a national certification examination recognized by the department such as the American Registry of Radiologic Technologists examination or the Nuclear Medicine Technology Certification Board examination or its equivalent, who performs in vivo imaging and measurement procedures and in vitro nonimaging laboratory studies, prepares radiopharmaceuticals, and administers diagnostic/therapeutic doses of radiopharmaceuticals to human beings while under the supervision of a licensed practitioner who is licensed to possess and use radioactive material.

- (i) "Radiation therapist" means a person other than a licensed practitioner who has passed a national certification examination recognized by the department such as the American Registry of Radiologic Technologists examination or its equivalent, who applies x-radiation and the ionizing radiation emitted from particle accelerators, cobalt sixty (60) units and sealed sources of radioactive material to human beings for therapeutic purposes while under the supervision of a licensed radiation oncologist or a board certified radiologist who is licensed to possess and use radioactive material.
- (j) "Limited x-ray machine operator" means a person other than a licensed practitioner or radiologic technologist who is issued a permit by the State Board of Medical Licensure to perform medical radiation technology limited to specific radiographic procedures on certain parts of the human anatomy, specifically the chest, abdomen and skeletal structures, and excluding fluoroscopic, both stationary and mobile (C-arm), and contrast studies, computed tomography, nuclear medicine, radiation therapy studies and mammography.
- (k) "Council" means the Medical Radiation Advisory Council created under Section 41-58-3.

This section shall stand repealed on July 1, 2015.

§41-58-3. ADOPTION, ETC., OF RULES AND REGULATIONS; REQUIREMENTS FOR OPERATION OF MEDICAL RADIATION TECHNOLOGY MACHINES; MAINTENANCE OF RECORDS BY FACILITIES; CONTINUING EDUCATION REQUIREMENTS FOR OPERATORS; REGISTRATION REQUIREMENTS. [REPEALED EFFECTIVE JULY 1, 2015].

- (1) The Department shall have full authority to adopt such rules and regulations not inconsistent with the laws of this state as may be necessary to effectuate the provisions of this chapter, and may amend or repeal the same as may be necessary for such purposes.
- (2) There shall be established a Medical Radiation Advisory Council to be appointed as

provided in this section. The council shall consist of nine (9) members as follows:

- (a) One (1) radiologist who is an active practitioner and member of the Mississippi Radiological Society;
- (b) One (1) licensed family physician;
- (c) One (1) licensed practitioner;
- (d) Two (2) registered radiologic technologists;
- (e) One (1) nuclear medicine technologist;
- (f) One (1) radiation therapist;
- (g) One (1) radiation physicist;
- (h) One (1) hospital administrator; and
- (i) The State Health Officer, or his designee, who shall serve as ex officio chairman with no voting authority.

(3) The Department shall, following the recommendations from the appropriate professional state societies and organizations, including the Mississippi Radiological Society, the Mississippi Society of Radiologic Technologists, and the Mississippi State Nuclear Medicine Society, and other nominations that may be received from whatever source, appoint the members of the council as soon as possible after the effective date of subsections (2) and (3) of this section. Any person serving on the council who is a practitioner of a profession or occupation required to be licensed, credentialed or certified in the state shall be a holder of an appropriate license, credential or certificate issued by the state. All members of the council shall be residents of the state of Mississippi. The council shall promulgate such rules and regulations by which it shall conduct its business. Members of the council shall receive no salary for services performed on the council but may be reimbursed for their reasonable and necessary actual expenses incurred in the performance of the same, from funds provided for such purpose. The council shall assist and advise the Department in the development of regulations and standards to effectuate the provisions of this chapter.

(4) A radiologic technologist, nuclear medicine technologist or radiation therapist shall not apply ionizing or x-radiation or administer radiopharmaceuticals to a human being or otherwise engage in the practice of medical radiation technology unless the person possesses a valid registration issued by the department under the provisions of this

chapter.

- (5) The Department may issue a temporary registration to practice a specialty of medical radiation technology to any applicant who has completed an approved program, who has complied with the provisions of this chapter, and is awaiting examination for that specialty. This registration shall convey the same rights as the registration for which the applicant is awaiting examination and shall be valid for one (1) six-month period.
- (6) The Department may charge a registration fee of not more than Fifty Dollars (\$50.00) biennially to each person to whom it issues a registration under the provisions of this chapter.
- (7) Registration with the department is not required for:
 - (a) A student enrolled in and participating in an accredited course of study approved by the department for diagnostic radiologic technology, nuclear medicine technology or radiation therapy, who as a part of his clinical course of study applies ionizing radiation to a human being while under the supervision of a licensed practitioner, registered radiologic technologist, registered nuclear medicine technologist or registered radiation therapist;
 - (b) Laboratory personnel who use radiopharmaceuticals for in vitro studies;
 - (c) A dental hygienist or a dental assistant who is not a radiologic technologist, nuclear medicine technologist or radiation therapist, who possesses a radiology permit issued by the Board of Dental Examiners and applies ionizing radiation under the specific direction of a licensed dentist;
 - (d) A chiropractic assistant who is not a radiologic technologist, nuclear medicine technologist or radiation therapist, who possesses a radiology permit issued by the Board of Chiropractic Examiners and applies ionizing radiation under the specific direction of a licensed chiropractor;
 - (e) An individual who is permitted as a limited x-ray machine operator by the State Board of Medical Licensure and applies ionizing radiation in a physician's office, radiology clinic or a licensed hospital in Mississippi under the specific direction of a licensed practitioner; and
 - (f) A student enrolled in and participating in an accredited course of study for diagnostic radiologic technology, nuclear medicine technology or radiation therapy and is employed by a physician's office, radiology clinic or a licensed hospital in

Mississippi and applies ionizing radiation under the specific direction of a licensed practitioner.

- (8) Nothing in this chapter is intended to limit, preclude, or otherwise interfere with the practices of a licensed practitioner who is duly licensed or registered by the appropriate agency of the state of Mississippi, provided that the agency specifically recognizes that the procedures covered by this chapter are within the scope of practice of the licensee or registrant.
- (9) (a) If any radiologic technologist, nuclear medicine technologist or radiation therapist violates any provision of this chapter or the regulations adopted by the department, the department shall suspend or revoke the registration and practice privileges of the person or issue other disciplinary actions in accordance with statutory procedures and rules and regulations of the department.
- (b) If any person violates any provision of this chapter, the Department shall issue a written warning to the licensed practitioner or medical institution that employs the person; and if that person violates any provision of this chapter again within three (3) years after the first violation, the Department may suspend or revoke the permit or registration for the x-radiation and ionizing equipment of the licensed practitioner or medical institution that employs the person, in accordance with statutory procedures and rules and regulations of the Department regarding suspension and revocation of those permits or registrations.
- (10) This section shall stand repealed on July 1, 2015.

§41-58-5. CONTINUING EDUCATION REQUIREMENTS; COMPLETION; FEES. [REPEALED EFFECTIVE JULY 1, 2015].

- (1) Each registered radiologic technologist, registered nuclear medicine technologist and registered radiation therapist shall submit evidence to the Department of completing twenty-four (24) hours of continuing education in a two-year period as described in the rules and regulations of the Department.
- (2) Each limited x-ray machine operator who is first employed to apply ionizing radiation in the State of Mississippi shall complete twelve (12) hours of education in radiologic technology, with six (6) of those hours specifically in radiation protection, not later than twelve (12) months after the date of his or her employment to apply ionizing radiation, and shall thereafter submit evidence to the State Board of Medical Licensure of

completing twelve (12) hours of continuing education in a two-year period as described in the rules and regulations of the State Board of Medical Licensure. Six (6) of the continuing education hours must be in radiation protection.

- (3) Each individual who is exempt from registration under paragraph (d) of Section 41-58-3 (7) shall complete twelve (12) hours of continuing education in a two-year period as described in the rules and regulations of the department. Six (6) of the continuing education hours must be in radiation protection. (4) Each individual who is exempt from registration under paragraph (d) of section 41-58-3 (7) and who is first employed to apply ionizing radiation in the State of Mississippi shall complete twelve (12) hours of education in radiologic technology, with six of those hours specifically in radiation protection, not later than twelve (12) months after the date of his or her employment to apply ionizing radiation.
- (5) The department shall approve training sessions that will provide the continuing education required under this section in each of the junior/community college districts in the state, with at least one (1) training session being held during each quarter of the year.
- (6) The Board of Chiropractic Examiners and the State Board of Medical Licensure may charge a fee of not more than Fifty Dollars (\$50.00) biennially to each individual whom the Board certifies as having completed the continuing education requirements of this section.
- (7) This section shall stand repealed on July 1, 2015.

This act shall take effect and be in force from and after July 1, 2000. Amended July 1, 2010. Amended July 1, 2013.

2.8 MISCELLANEOUS

§33-1-39. EXTENSION OF PROFESSIONAL LICENSE ISSUED ACTIVE DUTY MILITARY PERSONNEL; QUALIFICATION FOR EXTENSION; FEES.

A professional license issued pursuant to any provision of Title 73 to any member of the Mississippi National Guard or the United States Armed Forces Reserves shall not expire while the member is serving on federal active duty and shall be extended for a period not to exceed ninety (90) days after his return from federal active duty. If the license is renewed

during the ninety-day period after his return from federal active duty, the member shall only be responsible for normal fees and activities relating to renewal of the license and shall not be charged any additional costs such as, but not limited to, late fees or delinquency fees. The member shall present to the authority issuing the professional license a copy of his official military orders or a written verification from the member's commanding officer before the end of the ninety-day period in order to qualify for the extension. **Approved March 8, 2007.**

§93-11-64. USE OF SOCIAL SECURITY NUMBERS FOR LOCATING PARENTS.

- (1) The Department of Human Services and its divisions, and any agency, office or registry established by the Department, or which works in conjunction with the Department, or is authorized to supply information to the Department, may use Social Security numbers for the purpose of locating parents or alleged parents, establishing parentage, and establishing the amount of, modifying, or enforcing child support obligations.
- (2) This section requires that the Social Security number of:
 - (a) Any applicant for a state-issued license be recorded on the application;...

§99-19-35. PERSON CONVICTED OF CERTAIN CRIMES NOT TO PRACTICE MEDICINE..., OR HOLD OFFICE.

A person convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, forgery, embezzlement, or bigamy, shall not be allowed to practice medicine or dentistry, or be appointed to hold or perform the duties of any office of profit, trust, or honor, unless after full pardon for the same.

§11-1-52. LIMITATIONS ON CHARGES PERMITTED FOR PHOTOCOPYING PATIENTS' RECORDS BY MEDICAL PROVIDER; PHYSICIANS TO MAKE REASONABLE CHARGES FOR DEPOSITIONS; LIMITATIONS ON CHARGES PERMITTED FOR EXECUTION OF PATIENT-REQUESTED MEDICAL RECORD AFFIDAVIT BY MEDICAL PROVIDER; MEDICAL PROVIDERS TO COMPLY WITH HIPPA.

- (1) Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to patients or their representatives for photocopying any patient's records: Twenty Dollars (\$20.00) for pages one (1) through twenty (20); One Dollar (\$1.00) per page for the next eighty (80) pages; Fifty Cents (.50) per page for all pages thereafter. Ten percent (10%) of the total charge may be added

for postage and handling. 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.

- (2) A physician shall only charge normal, reasonable and customary charges for a deposition related to a patient that the physician is treating or has treated.
- (3) Any medical provider, hospital, nursing home or other medical facility shall charge no more than Twenty-five Dollars (\$25.00) for executing a medical record affidavit, when the affidavit is requested by the patient or the patient's representative.
- (4) In charging the fees authorized under subsection (1) of this section, the medical provider, hospital, nursing home or other medical facility shall comply with the federal Health Insurance Portability and Accountability Act (HIPPA).

§41-83-31. ADVERSE DETERMINATION TO PATIENT OR HEALTH CARE PROVIDER; DISCUSSION OF REASONS; DENIAL OF THIRD PARTY REIMBURSEMENT OR PRECERTIFICATION; EVALUATION BY TRAINED SPECIALIST.

Any program of utilization review with regard to hospital, medical or other health care services provided in this state shall comply with the following:

- (a) No determination adverse to a patient or to any affected health care provider shall be made on any question relating to the necessity or justification for any form of hospital, medical or other health care services without prior evaluation and concurrence in the adverse determination by a physician licensed to practice in Mississippi. The physician who made the adverse determination shall discuss the reasons for any adverse determination with the affected health care provider, if the provider so requests. The physician shall comply with this request within fourteen (14) calendar days of being notified of a request. Adverse determination by a physician shall not be grounds for any disciplinary action against the physician by the State Board of Medical Licensure.
- (b) Any determination regarding hospital, medical or other health care services rendered or to be rendered to a patient which may result in a denial of third-party reimbursement or a denial of precertification for that service shall include the evaluation, findings and concurrence of a physician trained in the relevant specialty or subspecialty, if requested by the patient's physician, to make a final determination that care rendered or to be rendered was, is, or may be medically inappropriate.

- (c) The requirement in this section that the physician who makes the evaluation and concurrence in the adverse determination must be licensed to practice in Mississippi shall not apply to the Comprehensive Health Insurance Risk Pool Association or its policyholders and shall not apply to any utilization review company which reviews fewer than ten (10) persons residing in the state of Mississippi.

This act shall take effect and be in force from and after July 1, 2000.

§41-75-1. AMBULATORY SURGICAL FACILITIES.

- (f) “Abortion facility” means a facility operating substantially for the purpose of performing abortions and is a separate identifiable legal entity from any other health care facility. Abortions shall only be performed by physicians licensed to practice in the State of Mississippi. All physicians associated with the abortion facility must have admitting privileges at a local hospital and staff privileges to replace local hospital on-staff physicians. All physicians associated with an abortion facility must be board certified or eligible in obstetrics and gynecology, and a staff member trained in CPR shall always be present at the abortion facility when it is open. The term “abortion facility” includes physicians’ offices that are used substantially for the purpose of performing abortions.

§ 73-21-127. MISSISSIPPI PRESCRIPTION MONITORING PROGRAM [REPEALED EFFECTIVE JULY 1, 2016]

The Board of Pharmacy shall develop and implement a computerized program to track prescriptions for controlled substances and to report suspected abuse and misuse of controlled substances in compliance with the federal regulations promulgated under authority of the National All Schedules Prescription Electronic Reporting Act of 2005 and in compliance with the federal HIPAA law, under the following conditions:

(a) Reporting of dispensing information shall be mandatory and required by the State Board of Pharmacy for any entity dispensing controlled substances in or into the State of Mississippi, except for the dispensing of controlled substance drugs prescribed by a veterinarian residing in the State of Mississippi.

(b) The prescriptions tracked shall be prescriptions for controlled substances listed in Drug Enforcement Agency Schedule II, III, IV or V and specified noncontrolled substances authorized by the State Board of Pharmacy that are dispensed to residents in the State of Mississippi by licensed pharmacies, nonresident pharmacies, institutions and dispensing practitioners, regardless of dispenser location.

(c) The Board of Pharmacy shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide them with the relevant information obtained for further investigation.

(d) The program shall provide information regarding the potential inappropriate use of controlled substances and the specified noncontrolled substances to practitioners, pharmacists-in-charge and appropriate state agencies in order to prevent the inappropriate or illegal use of these controlled substances. The specific purposes of the program shall be to: be proactive in safeguarding public health and safety; support the legitimate use of controlled substances; facilitate and encourage the identification, intervention with and treatment of individuals addicted to controlled substances and specified noncontrolled drugs; identify and prevent drug diversion; provide assistance to those state and federal law enforcement and regulatory agencies investigating cases of drug diversion or other misuse; and inform the public and health care professionals of the use and abuse trends related to controlled substance and specified noncontrolled drugs.

(e) (i) Access to collected data shall be confidential and not subject to the provisions of the federal Freedom of Information Act or the Mississippi Open Records Act. Upon request, the State Board of Pharmacy shall provide collected information to: pharmacists or practitioners who are properly registered with the State Board of Pharmacy and are authorized to prescribe or dispense controlled substances for the purpose of providing medical and pharmaceutical care for their patients; local, state and federal law enforcement officials engaged in the administration, investigation or enforcement of the laws governing illicit drug use; regulatory and licensing boards in this state; Division of Medicaid regarding Medicaid and Medicare Program recipients; judicial authorities under grand jury subpoena; an individual who requests the individual's own prescription monitoring information; and prescription monitoring programs in other states through mutual agreement adhering to State Board of Pharmacy policies.

(ii) The Director of the Mississippi Bureau of Narcotics, or his designee, shall have access to the Prescription Monitoring Program (PMP) database for the purpose of investigating the potential illegal acquisition, distribution, dispensing, prescribing or administering of the controlled and noncontrolled substances monitored by the program, subject to all legal restrictions on further dissemination of the information obtained.

(iii) The State Board of Pharmacy may also provide generic, nonidentifying statistical data for research or educational purposes.

(f) A dispenser pharmacist or practitioner licensed to dispense controlled substances and specified noncontrolled substance drugs who knowingly fails to submit drug monitoring information or knowingly submits incorrect dispensing information shall be subject to

actions against the pharmacist's or practitioner's license, registrations or permit and/or an administrative penalty as provided in Sections 73-21-97 and 73-21-103.

(g) "Practitioner," as used in this section, shall include any person licensed, registered or otherwise permitted to distribute, dispense, prescribe or administer a controlled substance, as defined under Section 41-29-105(y).

(h) In addition to any funds appropriated by the Legislature, the State Board of Pharmacy may apply for any available grants and accept any gifts, grants or donations to assist in future development or in maintaining the program.

(i) This section shall stand repealed on July 1, 2016.

2.9 MISSISSIPPI UNIFORM CONTROLLED SUBSTANCES LAW

§41-29-137. PRESCRIPTIONS.

(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II, as set out in Section 41-29-115, may be dispensed without the written prescription of a practitioner. A practitioner shall keep a record of all controlled substances in Schedule I, II and III administered, dispensed or professionally used by him otherwise than by prescription.

In emergency situations, as defined by rule of the State Board of Pharmacy, said Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 41-29-133. No prescription for a Schedule II substance may be refilled unless renewed by prescription issued by a licensed medical doctor.

(b) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, as set out in Sections 41-29-117 and 41-29-119, which is a prescription drug as determined under Federal Control Substance Act, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the

practitioner.

- (c) A controlled substance included in Schedule V, as set out in Section 41-29-121, shall not be distributed or dispensed other than for a medical purpose.

§41-29-139. PROHIBITED ACTS; PENALTIES.

- (e) It shall be unlawful for any physician practicing medicine in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectics and/or central nervous system stimulants classified in Schedule II ... for the exclusive treatment of obesity, weight control or weight loss. Any person who violates this subsection, upon conviction, is guilty of a misdemeanor and may be confined for a period not to exceed six (6) months, or fined not more than One Thousand Dollars (\$1,000.00), or both.

§ 41-29-157. ADMINISTRATIVE INSPECTION WARRANTS AND SEARCH WARRANTS.

- (a) Issuance and execution of administrative inspection warrants and search warrants shall be as follows, except as provided in subsection (c) of this section:
 - (1) A judge of any state court of record, or any justice court judge within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this article or rules thereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this article or rules thereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant. All such warrants shall be served during normal business hours;
 - (2) A search warrant shall issue only upon an affidavit of a person having knowledge or information of the facts alleged, sworn to before the judge or justice court judge and establishing the grounds for issuing the warrant. If the judge or justice court judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building or conveyance to be searched, the purpose of the search, and, if appropriate, the type of property to be searched, if any. The warrant shall:
 - (A) State the grounds for its issuance and the name of each person whose affidavit

has been taken in support thereof;

(B) Be directed to a person authorized by Section 41-29-159 to execute it;

(C) Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified, and if appropriate, direct the seizure of the property specified;

(D) Identify the item or types of property to be seized, if any;

(E) Direct that it be served and designate the judge or magistrate to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judge or justice court judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the appropriate state court for the judicial district in which the inspection was made.

(b) The Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(A) Places where persons registered or exempted from registration requirements under this article are required to keep records; and

(B) Places including factories, warehouses, establishments and conveyances in

which persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

- (2) When authorized by an administrative inspection warrant issued in accordance with the conditions imposed in this section, an officer or employee designated by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry, upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.
- (3) When authorized by an administrative inspection warrant, an officer or employee designated by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry may:
 - (A) Inspect and copy records required by this article to be kept;
 - (B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph (5) of this subsection, all other things therein, including records, files, papers, processes, controls and facilities bearing on violation of this article; and
 - (C) Inventory any stock of any controlled substance therein and obtain samples thereof.
- (4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:
 - (A) If the owner, operator or agent in charge of the controlled premises consents;
 - (B) In situations presenting imminent danger to health or safety;
 - (C) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
 - (D) In any other exceptional or emergency circumstance where time or opportunity

to apply for a warrant is lacking; or

(E) In all other situations in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

(c) Any agent of the bureau authorized to execute a search warrant involving controlled substances, the penalty for which is imprisonment for more than one (1) year, may, without notice of his authority and purpose, break open an outer door or inner door, or window of a building, or any part of the building, if the judge issuing the warrant:

(1) Is satisfied that there is probable cause to believe that:

(A) The property sought may, and, if such notice is given, will be easily and quickly destroyed or disposed of; or

(B) The giving of such notice will immediately endanger the life or safety of the executing officer or another person; and

(2) Has included in the warrant a direction that the officer executing the warrant shall not be required to give such notice.

Any officer acting under such warrant shall, as soon as practical, after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Search warrants which include the instruction that the executing officer shall not be required to give notice of authority and purpose as authorized by this subsection shall be issued only by the county court or county judge in vacation, chancery court or by the chancellor in vacation, by the circuit court or circuit judge in vacation, or by a justice of the Mississippi Supreme Court.

This subsection shall expire and stand repealed from and after July 1, 1974, except that the repeal shall not affect the validity or legality of any search authorized under this subsection and conducted prior to July 1, 1974.

§ 41-29-159. POWERS OF ENFORCEMENT PERSONNEL; DUTY OF CERTAIN INDIVIDUALS TO NOTIFY BUREAU OF NARCOTICS OF DEATH CAUSED BY DRUG OVERDOSE.

- (a) Any officer or employee of the Mississippi Bureau of Narcotics, investigative unit of the State Board of Pharmacy, investigative unit of the State Board of Medical Licensure, investigative unit of the State Board of Dental Examiners, investigative unit of the Mississippi Board of Nursing, investigative unit of the State Board of Optometry, any duly sworn peace officer of the State of Mississippi, any enforcement officer of the Mississippi Department of Transportation, or any highway patrolman, may, while engaged in the performance of his statutory duties:
- (1) Carry firearms;
 - (2) Execute and serve search warrants, arrest warrants, subpoenas, and summonses issued under the authority of this state;
 - (3) Make arrests without warrant for any offense under this article committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a crime; and
 - (4) Make seizures of property pursuant to this article.
- (b) As divided among the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing and the State Board of Optometry, the primary responsibility of the illicit street traffic or other illicit traffic of drugs is delegated to agents of the Mississippi Bureau of Narcotics. The State Board of Pharmacy is delegated the responsibility of regulating and checking the legitimate drug traffic among pharmacists, pharmacies, hospitals, nursing homes, drug manufacturers, and any other related professions and facilities with the exception of the medical, dental, nursing, optometric and veterinary professions. The State Board of Medical Licensure is responsible for regulating and checking the legitimate drug traffic among physicians, podiatrists and veterinarians. The Mississippi Board of Dental Examiners is responsible for regulating and checking the legitimate drug traffic among dentists and dental hygienists. The Mississippi Board of Nursing is responsible for regulating and checking the legitimate drug traffic among nurses. The State Board of Optometry is responsible for regulating and checking the legitimate drug traffic among optometrists.
- (c) The provisions of this section shall not be construed to limit or preclude the detection or arrest of persons in violation of Section 41-29-139 by any local law enforcement officer, sheriff, deputy sheriff or peace officer.

- (d) Agents of the bureau are authorized to investigate the circumstances of deaths which are caused by drug overdose or which are believed to be caused by drug overdose, and health care providers, coroners and law enforcement officers shall notify the bureau of any death caused by a drug overdose within twenty-four (24) hours.
- (e) Any person who shall impersonate in any way the director or any agent, or who shall in any manner hold himself out as being, or represent himself as being, an officer or agent of the Mississippi Bureau of Narcotics shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

2.10 ORGANIZATION OF THE STATE BOARD OF MEDICAL LICENSURE

§73-43-1. STATE BOARD OF MEDICAL LICENSURE ESTABLISHED.

There is hereby created and established a board to be known as the State Board of Medical Licensure.

§73-43-3. MEMBERSHIP OF BOARD; SELECTION; TERM OF OFFICE; VACANCIES.

- (1) The State Board of Medical Licensure shall consist of nine (9) physicians. Each of the physicians shall have graduated from a medical school which has been accredited by the liaison committee on medical education as sponsored by the American Medical Association and the Association of American Medical Colleges or from an osteopathic medical school which has been accredited by the Bureau of Professional Education of the American Osteopathic Association, and have at least six (6) years' experience in the practice of medicine. No more than two (2) members of the Board shall be a member of the faculty of the University of Mississippi School of Medicine. No more than four (4) members of the Board shall be from the same Mississippi Supreme Court district.
- (2) Three (3) physicians shall be nominated to the governor for each appointive position by the Mississippi State Medical Association; and said nominations shall give due regard to geographic distribution, race and sex. The governor shall appoint from said nominations the members of the Board with the advice and consent of the senate. The original appointments of the Board shall be made no later than June 30, 1980, for terms to begin

on July 1, 1980. The governor shall designate the initial terms of the members as follows: Three (3) members shall be appointed for a term which expires July 1, 1982, three (3) members shall be appointed for a term which expires July 1, 1984, and three (3) members shall be appointed for a term which expires July 1, 1986. Thereafter, all succeeding appointments shall be for terms of six (6) years from the expiration of the previous term. Vacancies in office shall be filled by appointment of the governor in the same manner as the appointment to the position which becomes vacant, subject to the advice and consent of the senate at the next regular session of the legislature.

§73-43-5. OFFICERS; BYLAWS.

The State Board of Medical Licensure is authorized to elect from its own members a president and secretary, and to create such other offices and adopt such by-laws as may be necessary for its efficient operation.

§73-43-7. QUORUM; MEETINGS; COMPENSATION.

Five (5) members shall constitute a quorum, and a majority of those present shall be necessary to reject any application. All regular meetings of the Board shall be held at least quarterly upon the call of the president, except the first meeting of the original appointees which shall be called by the Governor. The members of the Board shall be entitled to a per diem of Forty Dollars (\$40.00) for each day's service in attending meetings of the Board and for conducting examinations for professional certificates, and shall receive reimbursement for necessary expenses and mileage as is authorized by law.

§73-43-9. OATH OF OFFICE AND COMMISSION.

Each member of the State Board of Medical Licensure shall take the oath prescribed by Section 268 of the Mississippi Constitution of 1890 and file a certificate thereof in the office of the secretary of state, whereupon a commission shall be issued to him under the terms of his office.

§73-43-11. POWERS AND DUTIES OF BOARD.

The State Board of Medical Licensure shall have the following powers and responsibilities:

- (a) Setting policies and professional standards regarding the medical practice of physicians, osteopaths, podiatrists and physician assistants practicing with physician supervision;
- (b) Considering applications for licensure;
- (c) Conducting examinations for licensure;
- (d) Investigating alleged violations of the medical practice act;
- (e) Conducting hearings on disciplinary matters involving violations of state and federal law, probation, suspension and revocation of licenses;
- (f) Considering petitions for termination of probationary and suspension periods, and restoration of revoked licenses.
- (g) To promulgate and publish reasonable rules and regulations necessary to enable it to discharge its functions and to enforce the provisions of law regulating the practice of medicine;
- (h) To enter into contracts with any other state or federal agency, or with any private person, organization or group capable of contracting, if it finds such action to be in the public interest and in the furtherance of its responsibilities; and
- (i) Perform the duties prescribed by Sections 73-26-1 through 73-26-5.

§73-43-13. EXECUTIVE OFFICER.

The Board shall appoint an Executive Director who possesses the necessary qualifications and experience to enable him to carry out the duties required by his office. The Executive Director who may be a physician, shall receive a salary set by the Board, subject to the approval of the State Personnel Board, and shall serve at the will and pleasure of the Board. The Executive Officer shall be vested with all the authority of the Board when it is not in session, and he shall be subject to such rules and regulations as may be prescribed by the Board.

§73-43-14. EXECUTIVE COMMITTEE.

The State Board of Medical Licensure may appoint an executive committee, to be composed of three (3) of its members, with a chairman to be designated by the Board from the members appointed to said committee. The executive committee shall have authority to execute all the powers vested in the Board, in the interim of the meetings of the Board. The executive committee shall have the authority to conduct licensure hearings pursuant to Section 73-25-27, provided that the power to revoke shall be subject to approval of the Board. Any person aggrieved by a decision of the executive committee regarding licensure may appeal to the Board. Any person aggrieved by an action of the Board regarding licensure may appeal to the Chancery Court of the First Judicial District of Hinds County. Any action of the executive committee shall be legal and binding until modified or annulled by the Board, and all pains and penalties prescribed for violating the rules of the Board shall apply to any violation of rules and regulations that may be prescribed by the executive committee. Any two (2) members of the executive committee shall be a quorum for the transaction of business.

All official meetings of the executive committee, as to time and place, shall be held pursuant to a call of the president of the Board.

Actions taken by the Board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

§73-43-17. VENUE OF ACTIONS AGAINST BOARD.

Unless otherwise provided for by law, the venue of actions against the State Board of Medical Licensure wherein said board is a defendant shall be the first judicial district of Hinds County, Mississippi.

2.11 ACUPUNCTURE PRACTICE ACT [REPEALED EFFECTIVE JULY 1, 2017]

§73-71-1. SHORT TITLE.

This act shall be known and may be cited as the "Acupuncture Practice Act." Whenever a reference is made to the Acupuncture Practice Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

§73-71-3. LEGISLATIVE INTENT; PURPOSES.

- (1) In its concern with the need to eliminate the fundamental causes of illness and with the need to treat the whole person, the Legislature intends to establish in this chapter a framework for the practice of the art and science of acupuncture.
- (2) The purposes of this chapter are to encourage the effective utilization of the skills relative to practitioners of acupuncture by citizens desiring their services; to remove the existing legal constraints that unnecessarily hinder the effective provision of health care services; and to subject individuals practicing acupuncture to regulation and control as a primary and independent health care profession.

§73-71-5. DEFINITIONS.

As used in this act, unless the context otherwise requires, the following terms shall have the following meanings:

- (a) "Accredited college of acupuncture" means any college, school or division of a university or college that offers the degree of Master of Science in Oriental Medicine (MSOM) or its equivalent and that is accredited by the Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM).
- (b) "Acupuncturist" means a person who has received a professional degree from a college of acupuncture and Oriental medicine.
- (c) "Acupuncturist-patient relationship" means that the acupuncturist has assumed the responsibility for making clinical judgments regarding the health of the patient and the need for medical treatment, and the patient has agreed to follow the acupuncturist's instructions.
- (d) "Acupuncture practitioner" means a practitioner licensed under this chapter to practice the techniques of acupuncture in this state and includes the term "acupuncturist."

- (e) "Advisory council" means the Mississippi Council of Advisors in Acupuncture established in this chapter.
- (f) "Board" means the State Board of Medical Licensure established in Section 73-43-1 et seq.
- (g) "Complementary and integrative therapies" means a heterogeneous group of preventive, diagnostic and therapeutic philosophies and practices, which at the time they are performed may differ from current scientific knowledge, or whose theoretical basis and techniques may diverge from western medicine routinely taught in accredited medical colleges, or both. These therapies include, but are not limited to, acupuncture, acuthery and acupressure.
- (h) "Impaired practitioner" means a practitioner who is unable to practice acupuncture with reasonable skill and safety because of a physical or mental disability as evidenced by a written determination from a competent authority or written consent based on clinical evidence, including deterioration of mental capacity, loss of motor skills, or abuse of drugs or alcohol of sufficient degree to diminish the person's ability to deliver competent patient care.
- (i) "Informed consent" means the acupuncture practitioner has informed the patient, in a manner that would be understood by a reasonable person, of the diagnostic and treatment options, risk assessment and prognosis and has provided the patient with an estimate of the charges for treatment to be rendered and the patient has consented to the recommended treatment.
- (j) "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.
- (k) "Physician" means a doctor of medicine or osteopathy who is legally authorized to practice medicine in the state of Mississippi.
- (l) "Practice of acupuncture" means:
 - i() To treat, correct, change, alleviate or prevent disease, illness, pain, deformity, defect, injury or other physical or mental conditions by the techniques of acupuncture, including:
 1. The administering or applying of an apparatus or other therapeutic technique as defined in this chapter; or

2. The using of complementary and integrative therapies as defined in this chapter; or
 3. The rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of the above.
- ii() To represent, directly or indirectly, publicly or privately, an ability and willingness to do an act described in this paragraph.
 - iii() To use any title, words, abbreviation or letters in a manner or under circumstances that induce the belief that the person using them is qualified to do any act described in this paragraph.
- (m) "Techniques of acupuncture" includes acupuncture, moxibustion or heating modalities, cupping, magnets, ion pumping cords, electroacupuncture including electrodermal assessment, application of cold packs, dietary, nutritional and lifestyle counseling, manual therapy (Tui Na), massage, breathing and exercise techniques, the administration of any herb and nutritional supplement and meridian therapy. The terms used in this paragraph are defined as follows:
- i() "Acupuncture" means the insertion and manipulation of needles to the body, and the use of Oriental medicine and other modalities and procedures at specific locations on the body, for the prevention or correction of any disease, illness, injury, pain or other condition.
 - ii() "Cupping" means the heating of air or mechanical creation of suction in a cup, application to specific locations on the body to induce local vasodilation and mechanical expansion of underlying tissue.
 - iii() "Ion pumping cords" means the application of wires containing diodes to acupuncture needles that have been placed on the body.
 - iv() "Magnets" means the application of magnets to specific locations on the body.
 - v() "Electroacupuncture including electrodermal assessment" means the use of electronic biofeedback, and electrostimulation instruments.
 - vi() "Cold packs" means the application of cold packs and ice to specific locations on the body to reduce heat conditions or inflammation in surface tissues of the

body.

- vii() "Dietary, nutritional and lifestyle counseling" means in depth patient interviews and counseling to determine whether poor dietary, lifestyle or nutritional practices are a factor in a patient's illness and to educate toward a healthier lifestyle.
- viii() "Manual therapy (Tui Na) and Massage" means mobilization of skeletal and soft tissues.
- ix() "Breathing and exercise techniques" means the use of Qi Gong and other techniques of therapeutic breathing and exercise.
- x() "Administration of herbal and botanical substances" means the administration of herbs of animal, vegetable or mineral origin for health maintenance and the treatment of effects of disease.
- xi() "Vitamin, mineral or nutritional supplement" means a nutritional substance, including a concentrate or extract of such a substance.
- xii() "Devices for meridian therapy" means all assessment and/or treatment devices for use with acupuncture meridians.

§73-71-7. WRITTEN REFERRAL OR PRESCRIPTION REQUIRED; ACUPUNCTURE TO BE PERFORMED UNDER GENERAL SUPERVISION OF REFERRING OR PRESCRIBING PHYSICIAN; PRACTITIONER TO PROVIDE CERTAIN INFORMATION TO PATIENT [REPEALED EFFECTIVE JULY 1, 2017].

All of the following shall apply to an acupuncture practitioner who is licensed to practice in Mississippi:

- (a) The practitioner 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 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.
- (b) 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.

- (c) Before treating a patient, the practitioner 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.
- (d) On initially meeting a patient in person, the practitioner shall provide in writing the practitioner's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.
- (e) While treating a patient, the practitioner shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical treatment, the practitioner shall consult promptly with a physician.

§73-71-9. PHYSICIAN TO PERFORM MEDICAL DIAGNOSTIC EXAMINATION BEFORE REFERRING OR PRESCRIBING ACUPUNCTURE; INFORMATION TO BE INCLUDED IN REFERRAL OR PRESCRIPTION; PHYSICIAN TO BE AVAILABLE FOR CONSULTATION WITH PRACTITIONER.

All of the following shall apply to an acupuncture practitioner's supervising physician for a patient:

- (a) Before making the referral or prescription for acupuncture, the physician shall perform a medical diagnostic examination of the patient or review the results of a medical diagnostic examination recently performed by another physician.
- (b) The physician shall make the referral or prescription in writing and specify in the referral or prescription all of the following:
 - i() The physician's diagnosis of the ailment or condition that is to be treated by acupuncture;
 - ii() A time by which or the intervals at which the practitioner must provide reports to the physician regarding the patient's condition or progress in treatment; and
 - iii() The conditions or restrictions placed on the practitioner's course of treatment.
- (c) The physician shall be personally available for consultation with the practitioner. 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.

§73-71-11. MISSISSIPPI COUNCIL OF ADVISORS IN ACUPUNCTURE CREATED; MEMBERSHIP, ORGANIZATION AND OPERATION; COMPENSATION; ANNUAL REPORT.

- (1) There is hereby established the Mississippi Council of Advisors in Acupuncture to aid the State Board of Medical Licensure in administering the provisions of this act.
- (2) The council shall consist of three (3) persons appointed by the Executive Director of the State Medical Licensure Board to be selected from a list of six (6) nominees of the Mississippi Oriental Medicine Association. Members of the council shall either be acupuncture practitioners who are not medical, osteopathic or chiropractic doctors or surgeons, or medical doctors who are registered to practice acupuncture or qualify as an acupuncture practitioner.
- (3) The initial members of the council shall be appointed by the Governor for staggered terms as follows: one (1) member shall be appointed for a term ending on July 1, 2011, and two (2) members shall be appointed for terms ending on July 1, 2012. After the expiration of the initial terms, each successor member shall be appointed for a term of three (3) years. A vacancy shall be filled by appointment by the Governor for the remainder of the unexpired term. Council members shall serve until their successors have been appointed and qualified.
- (4) No council member shall serve more than two (2) consecutive full terms, and any member failing to attend three (3) consecutive meetings after proper notice has been given by the council shall automatically be removed as a council member, unless excused for reasons set forth in council regulations.
- (5) The Governor may remove any member from the council for neglect of any duty required by law, for incompetence, for improper or unprofessional conduct as defined by Board regulations, for conflict of interest, or for any reason that would justify the suspension or revocation of his or her license to practice acupuncture.
- (6) A majority of the members of the council shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those members present at a meeting to take any action or pass any motion. The council shall, not later than September 1, 2009, and annually thereafter in the month of July, hold a meeting and elect from its membership a chairman and vice chairman. The council shall meet at any other times as it deems necessary or advisable by the chairman, a majority of its

members, or the Governor. Reasonable notice of all meetings shall be given in the manner prescribed by the Open Meetings Law (Section 25-3-41 et seq.). Members of the council are not liable to civil action for any act performed in good faith in the execution of duties as a council member.

- (7) Members of the council shall be reimbursed for expenses and mileage as provided in Section 25-3-41, but shall receive no other compensation, perquisite or allowance for service on the council.
- (8) The council shall report annually to the Legislature statistics regarding the number of licensees, results of the licensing examinations, and violations investigated during the previous year.

§73-71-13. STATE BOARD OF MEDICAL LICENSURE EMPOWERED TO PROMULGATE RULES AND REGULATIONS GOVERNING ACUPUNCTURE; BOARD'S AUTHORITY AND RESPONSIBILITIES.

- (1) The State Board of Medical Licensure is hereby empowered, authorized and directed to adopt, amend, promulgate and enforce such rules, regulations and standards governing the practice of acupuncture as may be necessary to further the accomplishment of the purpose of this chapter, and in so doing shall utilize as the basis thereof the corresponding recommendations of the advisory council.
- (2) The Board's authority and responsibility include the following:
 - (a) Grant, deny, renew, restrict, suspend or revoke licenses to practice acupuncture in accordance with the provisions of this chapter or other applicable state law;
 - (b) Examine by established protocol the qualifications and fitness of applicants for a license to practice acupuncture in this state;
 - (c) Conduct investigations of suspected violations of this chapter to determine whether there are sufficient grounds to initiate disciplinary proceedings;
 - (d) Inspect premises and equipment, on a triennial basis and assess an inspection fee in the amount of One Hundred Dollars (\$100.00) per inspection and an additional fee of Fifty Dollars (\$50.00) for each licensed acupuncturist employed by the inspected establishment;
 - (e) Hold hearings on all matters properly brought before the Board, to administer oaths, receive evidence, make necessary determinations and enter orders

consistent with the findings. The Board may require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence and commission depositions. The Board may designate one or more of its members to serve as its hearing officer. The Board shall adopt rules and regulations for hearings before the Board and the rules shall afford any person appearing before the Board the safeguards of procedural due process. Formal rules of evidence shall not apply;

- (f) Contract with independent consultants or other appropriate agencies to administer examinations for licensure, according to the provisions of this chapter, and establish a fee for such examination not to exceed Five Hundred Dollars (\$500.00);
- (g) Establish and publish a schedule of fees for annual licensing, certification and renewal not to exceed Four Hundred Dollars (\$400.00) annually; and
- (h) Keep and maintain accurate records of all Board business in accordance with state law.

The powers enumerated in this section are granted for the purpose of enabling the Board to supervise effectively the practice of acupuncture and are to be construed liberally to accomplish this objective.

§73-71-15. PROHIBITION AGAINST UNLICENSED PRACTICE OF ACUPUNCTURE UNLESS EXEMPT FROM LICENSURE.

Unless licensed as an acupuncture practitioner under this chapter, or exempt from licensure under the provisions of this chapter, no person shall practice or hold himself or herself out as practicing or engaging in the practice of acupuncture, either for compensation or gratuitously.

§73-71-17. ACUPUNCTURE PRACTITIONER LICENSE AUTHORIZES PRACTICE OF ACUPUNCTURE; CONSTRUCTION OF CHAPTER.

- (1) An acupuncture practitioner license authorizes the holder to engage in the practice of acupuncture.
- (2) This chapter shall not be construed to limit, interfere with, or prevent any other class of

licensed health care professionals from practicing within the scope of their licenses as defined by each profession's state licensing statute.

- (3) This chapter shall not be construed to make unlawful the activities of persons involved in research performed under the auspices of a federal or state regulated research institution.
- (4) The practice and techniques of acupuncture shall not include the practice of physical therapy as defined in the Mississippi Physical Therapy Practice Law, Title 73, Chapter 23 of the Mississippi Code of 1972.

§73-71-19. QUALIFICATIONS FOR LICENSURE; EXAMINATION; SUBJECTS OF EXAMINATION.

- (1) No person shall be licensed to practice acupuncture unless he or she has passed an examination and/or has been found to have the necessary qualifications as prescribed in the regulations adopted by the Board.
- (2) Before any applicant is eligible for an examination or qualification, he or she shall furnish satisfactory proof that he or she:
 - (a) Is a citizen or permanent resident of the United States;
 - (b) Has demonstrated proficiency in the English language;
 - (c) Is at least twenty-one (21) years of age;
 - (d) Is of good moral character;
 - (e) Has completed a program of acupuncture and has received a certificate or diploma from an institute approved by the Board, according to the provisions of this chapter;
 - (f) Has completed a clinical internship training as approved by the Board; and
 - (g) Has received training in cardiopulmonary resuscitation (CPR).
- (3) The Board may hold an examination at least once a year, and all applicants shall be notified in writing of the date and time of all examinations. The Board may use a NCCAOM examination if it deems that national examination to be sufficient to qualify a practitioner for licensure in this state. In no case shall the state's own examination be less rigorous than the nationally recognized examination.

- (4) In addition to the written examination, if the nationally recognized examination does not provide a suitable practical examination comparable to Board standards, the Board shall examine each applicant in the practical application of Oriental medical diagnostic and treatment techniques in a manner and by methods that reveal the applicant's skill and knowledge.
- (5) The Board shall require all qualified applicants to be examined in the following subjects:
- (a) Anatomy and physiology;
 - (b) Pathology;
 - (c) Diagnosis;
 - (d) Hygiene, sanitation and sterilization techniques;
 - (e) All major acupuncture principles, practices and techniques; and
 - (f) Clean Needle Technique Exam.
- (6) To assist the Board in conducting its licensure investigation, all applicants shall undergo a fingerprint-based criminal history records check of the Mississippi central criminal database and the Federal Bureau of Investigation criminal history database. Each applicant shall submit a full set of the applicant's fingerprints in a form and manner prescribed by the Board which shall be forwarded to the Mississippi Department of Public Safety (Department) and the Federal Bureau of Investigation Identification Division for this purpose. Any and all state or national criminal history records information obtained by the Board that is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the Board, its members, officers, investigators, agents and attorneys in evaluating the applicant's eligibility or disqualification for licensure, and shall be exempt from the Mississippi Public Records Act of 1983. Except when introduced into evidence in a hearing before the Board to determine licensure, no such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the Board to any other person or agency. The Board shall provide to the Department the fingerprints of the applicant, any additional information which may be required by the Department, and a form signed by the applicant consenting to the check of the criminal records and to the use of the fingerprints and other identifying information required by the state or national repositories. The Board shall charge and collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the Board in

requesting and obtaining state and national criminal history record information on the applicant.

- (7) The Board shall issue a license to every applicant whose application has been filed with and approved by the Board and who has paid the required fees and who either:
- (a) Has passed the Board's written examination and practical examination, with a score of not less than seventy percent (70%) on each examination; or
 - (b) Has achieved a passing score on a Board approved nationally recognized examination, which examination includes a written and practical portion, as determined by the Board; or
 - (c) Has received certification from a Board approved national certification process; or
 - (d) Has achieved a passing score on a Board approved nationally recognized written examination and has passed the Board's practical examination with a score of not less than seventy percent (70%).
- (8) The Board shall keep a record of all examinations held, together with the names and addresses of all persons taking examinations, and the examination results. Within forty-five (45) days after the examination, the Board shall give written notice of the results of the examination to each applicant.

§73-71-21. LICENSE WITHOUT EXAMINATION; REQUIREMENTS; RECIPROCITY [REPEALED EFFECTIVE JULY 1, 2017].

The Board may, at its discretion, issue a license without examination to an acupuncture practitioner who has been licensed, certified or otherwise formally legally recognized as an acupuncturist or acupuncture practitioner in any state or territory if all three (3) of the following conditions are met to its satisfaction:

- (a) The applicant meets the requirements of practice in the state or territory in which the applicant is licensed, certified, or registered as an acupuncturist or acupuncture practitioner;
- (b) The requirements for practice in the state or territory in which the applicant is licensed, certified or registered as an acupuncturist or acupuncture practitioner are at least as stringent as those of this state; and

- (c) The state or territory in which the applicant is licensed, certified or legally recognized as an acupuncturist or acupuncture practitioner permits an acupuncture practitioner licensed in this state to practice acupuncture or acupuncture in that jurisdiction by credentials examination.

§73-71-23. CONTINUING EDUCATION REQUIREMENTS.

- (1) The Board shall establish, by regulation, mandatory continuing education requirements for acupuncture practitioners licensed in this state, including the following:
 - (a) Each person licensed under this chapter, whether or not residing within the state, shall complete thirty (30) hours of continuing education within each biennial renewal period, except during the initial biennial renewal period; and
 - (b) Each person not obtaining the required number of hours of continuing education may have his or her license renewed for just cause, as determined by the Board, so long as the Board requires that the deficient hours of continuing education, and all unpaid fees, are made up during the following renewal period in addition to the current continuing education requirements for the renewal period. If any acupuncture practitioner fails to make up the deficient hours and complete the later renewal period, or fails to make up any unpaid fees, then his or her license shall not be renewed until all fees are paid and all of the required hours are completed and documented to the Board.
- (2) The Board shall establish by regulation education standards and record keeping requirements for continuing education providers. A provider of continuing education courses shall apply to the Board for approval to offer continuing education courses for credit toward this requirement on a form developed by the Board, shall pay a fee covering the cost of approval and for monitoring of the provider by the Board. Institutions, associations and individuals providing continuing education shall maintain records of attendance, including sign-in sheets, for a period of three (3) years.

§73-71-25. APPROVAL OF SCHOOLS AND COLLEGES OFFERING EDUCATION AND TRAINING IN THE PRACTICE OF ACUPUNCTURE; STANDARDS OF PROFESSIONAL EDUCATION.

- (1) The Board shall establish standards for approval of schools and colleges offering education and training in the practice of acupuncture.
- (2) Before approval of an institute of acupuncture, the Board shall determine that the

institute meets standards of professional education. These standards shall provide that the institute:

- (a) Require, as a prerequisite to graduation, a program of study of at least two thousand five hundred (2,500) hours;
- (b) Meet the minimum requirements of a Board approved national accrediting body;
- (c) Require participation in a carefully supervised clinical or internship program; and
- (d) Confer a certificate, diploma or degree in acupuncture only after personal attendance in classes and clinics.

§73-71-27. EFFECT OF CHAPTER ON ACUPUNCTURIST LICENSED, CERTIFIED OR REGISTERED UNDER PRIOR LAW; PROHIBITION AGAINST PERFORMING PROFESSIONAL RESPONSIBILITIES NOT QUALIFIED TO PERFORM; PENALTIES FOR VIOLATION; LIABILITY INSURANCE TO BE MAINTAINED.

- (1) Any acupuncturist validly licensed, certified or registered under prior law of this state shall be deemed as licensed under the provisions of this act.
- (2) All acupuncturists licensed under this section shall not accept or perform professional responsibilities that the licensee knows or has reason to know that the person is not qualified by training, experience or certification to perform. Violation of this section shall subject the licensee to the revocation or suspension of his or her license. The Board shall make regulations on those requirements and shall grant previously licensed, certified or registered acupuncturists qualification on a case-by-case basis.
- (3) The Board shall require each licensee to obtain and maintain an adequate amount of professional liability insurance and provide proof of that insurance to the Board.

§73-71-29. LICENSEE REPORTING AND RECORD KEEPING REQUIREMENTS.

- (1) Persons licensed under this chapter shall be subject to the following reporting requirements:
 - (a) All morbidity, mortality, infectious disease, abuse and neglect reporting requirements of this state;
 - (b) Reporting completion of the required continuing education study to the Board with his or her license renewal;
 - (c) Notification of the Board in writing of any change of address within thirty (30) days of the change;
 - (d) Notification of the Board in writing of termination or temporary closing of the licensee's practice if the cessation of business is expected to be over ninety (90) days, or otherwise limit access to patient records. The licensee shall notify the Board upon resuming practice; and
 - (e) Posting his or her license in a conspicuous location in his or her place of practice at all times.
- (2) Persons licensed under this chapter shall be subject to the following record keeping requirements:
 - (a) Maintenance of accurate records of each patient that he or she treats. The records shall include the name of the patient, medical history, subjective symptoms, objective findings and treatment rendered;
 - (b) Maintenance of patient records for a period of seven (7) years; and
 - (c) Maintenance of documents proving completion of required continuing education study for a period of three (3) years.

§73-71-31. COMPLIANCE WITH APPLICABLE PUBLIC HEALTH LAWS REQUIRED; REQUISITE PRACTICES.

- (1) Acupuncture practitioners shall comply with all applicable public health laws of this state.
- (2) Sanitation practices shall include:
 - (a) Hands shall be washed with soap and water or other disinfectant between treatment of different patients;

- (b) Skin in the area of penetration shall be swabbed with alcohol or other germicidal solution before inserting needles;
- (c) Needles and other equipment used in the practice of acupuncture shall be sterilized before using;
- (d) Needles and other hazardous waste shall be disposed of in a manner prescribed by law; and
- (e) Other sanitation practices shall be observed to insure health and safety of patients, as prescribed by the Board.

§73-71-33. GROUNDS FOR DISCIPLINARY ACTIONS.

The following acts constitute grounds for which the Board may initiate disciplinary actions:

- (a) Attempting to obtain, or renewing a license to practice acupuncture by bribery or misinterpretation;
- (b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state or territory for reasons that would preclude licensure in this state;
- (c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a felony, or a crime of moral turpitude, or a crime that directly relates to acupuncture. For the purposes of this paragraph, a plea of guilty or a plea of nolo contendere accepted by the court shall be considered as a conviction;
- (d) Advertising, practicing, or attempting to practice under a name other than one's own;
- (e) The use of advertising or solicitation that is false or misleading;
- (f) Aiding, assisting, procuring, employing or advertising an unlicensed person to practice acupuncture contrary to this chapter or a rule of the Board;
- (g) Failing to perform any statutory or legal obligation placed upon an acupuncture practitioner;
- (h) Making or filing a report that the licensee knows to be false, intentionally or negligently failing to file a report required by state or federal law, willfully impeding

or obstructing that filing or inducing another person to do so. Those reports shall include only those that are signed in the capacity of an acupuncture practitioner;

- (i) Exercising coercion, intimidation or undue influence in entering into sexual relations with a patient, or continuing the patient-practitioner relationship with a patient with whom the licensee has sexual relations, if those sexual relations cause the licensee to perform services incompetently. This paragraph shall not apply to sexual relations between acupuncture practitioners and their spouses;
- (j) Making deceptive, untrue or fraudulent misrepresentations in the practice of acupuncture;
- (k) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation or undue influence, or a form of overreaching conduct;
- (l) Failing to keep written medical records justifying the course of treatment of the patient;
- (m) Exercising undue influence on the patient to exploit the patient for financial gain of the licensee or of a third party;
- (n) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or intemperate use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;
- (o) Malpractice or the failure to practice acupuncture to that level of care, skill and treatment that is recognized by a reasonably prudent similar practitioner of acupuncture as being acceptable under similar conditions and circumstances;
- (p) Practicing or offering to practice beyond the scope permitted by law or accepting or performing professional responsibilities that the licensee knows or has reason to know that he or she is not qualified by training, experience or certification to perform;
- (q) Delegating professional responsibilities to a person when the licensee delegating those responsibilities knows, or has reason to know, that the person is not qualified by training, experience or licensure to perform them;
- (r) Violating any provision of this chapter, a rule of the Board, or a lawful order of the Board previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the Board;

- (s) Conspiring with another to commit an act, or committing an act, that coerces, intimidates or precludes another licensee from lawfully advertising or providing his or her services;
- (t) Fraud or deceit, or gross negligence, incompetence or misconduct in the operation of a course of study;
- (u) Failing to comply with state, county or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious disease;
- (v) Failing to comply with any rule of the Board relating to health and safety, including, but not limited to, sterilization of equipment and the disposal of potentially infectious materials;
- (w) Incompetence, gross negligence or other malpractice in the practice of acupuncture;
- (x) Aiding the unlawful practice of acupuncture;
- (y) Fraud or dishonesty in the application or reporting of any test for disease;
- (z) Failure to report, as required by law, or making false or misleading report of, any contagious or infectious disease;
- (aa) Failure to keep accurate patient records; or
- (bb) Failure to permit the Board or its agents to enter and inspect acupuncture premises and equipment as set by rules promulgated by the Board.

§73-71-35. DISCIPLINARY PROCEEDINGS; PENALTIES; ORDER TO COMPEL MENTAL OR PHYSICAL EXAMINATION.

- (1) Disciplinary proceedings under this act shall be conducted in the same manner as other disciplinary proceedings are conducted by the State Board of Medical Licensure.
- (2) When the Board finds any person guilty of any of the acts set forth in Section 73-71-33, it may then enter an order imposing one or more of the following penalties:
 - (a) Refusal to certify to the Board an application for licensure;
 - (b) Revocation or suspension of a license;

- (c) Restriction of practice;
 - (d) Imposition of an administrative fine not to exceed One Thousand Dollars (\$1,000.00) for each count or separate offense;
 - (e) Issuance of a reprimand;
 - (f) Placement of the acupuncture practitioner on probation for a period of time and subject to the conditions as the Board may specify.
- (3) In enforcing this chapter, upon finding of the Board that probable cause exists to believe that the licensee is unable to serve as an acupuncture practitioner because of committing any of the acts set forth in Section 73-71-33 or any of the crimes set forth in Section 73-71-37, the Board shall have to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the Board. If the licensee refuses to comply with the order, the Board's order directing the examination may be enforced by filing a petition for enforcement in any court of competent jurisdiction. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public unless the licensee stipulates otherwise. The Board shall be entitled to the summary procedure provided in applicable state law. An acupuncture practitioner affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety of the patients. In any proceeding under this subsection, neither the record of proceedings nor the orders entered by the Board shall be used against the acupuncture practitioner in any other proceeding.
- (4) The Board shall not reinstate the license of an acupuncture practitioner, or cause a license to be issued to a person it has deemed to be unqualified, until such time as the Board is satisfied that he or she has complied with all the terms and conditions set forth in the final order and that he or she is capable of safely engaging in the practice of acupuncture.

§73-71-37. PROHIBITED ACTS; PENALTIES.

- (1) It is unlawful for any person to:
- (a) Hold himself or herself out as an acupuncture practitioner unless licensed as

provided in this chapter;

- (b) Practice acupuncture, or attempt to practice acupuncture, without an active license or as otherwise permitted by Board rule established under the authority of this chapter;
 - (c) Obtain, or attempt to obtain, a license to practice acupuncture by fraud or misrepresentation; or
 - (d) Permit an employed person to engage in the practice of acupuncture unless the person holds an active license as a practitioner of acupuncture, except as provided by this chapter.
- (2) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or both.

§73-71-39. BOARD TO ESTABLISH PROGRAM OF CARE, COUNSELING OR TREATMENT FOR IMPAIRED ACUPUNCTURISTS.

- (1) The Board shall establish a program of care, counseling or treatment for impaired acupuncturists.
- (2) The program of care, counseling or treatment shall include a written schedule of organized treatment, care, counseling, activities or education satisfactory to the Board designed for the purposes of restoring an impaired person to a condition by which the impaired person can practice acupuncture with reasonable skill and safety of a sufficient degree to deliver competent patient care.
- (3) All persons authorized to practice by the Board shall report in good faith any acupuncturist they reasonably believe to be an impaired practitioner as defined in Section 73-71-5.

§73-71-41. CONFIDENTIALITY OF PATIENT CARE INFORMATION; WAIVER OF PRIVILEGE.

- (1) No licensed acupuncturist shall disclose any information concerning the licensed acupuncturist's care of a patient except on written authorization or by waiver by the licensed acupuncturist's patient or by court order, by subpoena, or as otherwise

provided in this section.

- (2) Any licensed acupuncturist releasing information under written authorization or other waiver by the patient or under court order, by subpoena, or as otherwise provided by this section shall not be liable to the patient or any other person.
- (3) The privilege provided by this section shall be waived to the extent that the licensed acupuncturist's patient places the licensed acupuncturist's care and treatment of the patient or the nature and extent of injuries to the patient at issue in any civil criminal proceeding.

§73-71-43. LICENSE RENEWAL; FEES.

Each licensee shall be required to pay biennial license renewal fees and meet continuing education requirements as provided in this chapter.

§73-71-45. RENEWAL OF EXPIRED LICENSE WITHIN FOUR YEARS AFTER EXPIRATION; REQUIREMENTS FOR OBTAINING NEW LICENSE AFTER FOUR YEARS AFTER EXPIRATION.

- (1) A license that has expired may be renewed at any time within ninety (90) days after its expiration upon filing of an application for renewal on a form provided by the Board and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within ninety (90) days after its expiration, the acupuncture practitioner, as a condition precedent to renewal, shall pay the renewal fees plus a late fee to be set by the Board.
- (2) A person who fails to renew his or her license within four (4) years after its expiration may not renew that license, and it may not be restored, reissued or reinstated after that time; but that person may apply for and obtain a new license if he or she meets the following requirements:
 - (a) Takes and passes a suitable examination, or demonstrates continued practice and continuing education acceptable to the Board; and
 - (b) Pays all fees that would be required if an initial application for licensure were being made.

§73-71-47. REQUEST BY LICENSEE TO HAVE LICENSE PLACED ON INACTIVE STATUS; REINSTATEMENT.

At any time while a license is valid, or expired but not lapsed, the licensee may request that his or her license be placed on inactive status. While on inactive status, the licensee is not subject to fees or continuing education requirements. As a condition of reinstatement, the licensee must satisfy the following requirements:

- (a) Demonstrate that he or she has not committed any acts or crimes constituting grounds for denial of licensure under any provisions of this chapter;
- (b) Pay fees to reactivate status as designated by the Board;
- (c) Meet continuing education requirements equivalent to those that would have been met in the preceding two (2) years; and
- (d) Establish to the satisfaction of the Board that, with due regard for the public interest, he or she is qualified to practice as an acupuncture practitioner.

§73-71-49. SUSPENDED LICENSE SUBJECT TO EXPIRATION AND CAN BE RENEWED; REVOKED LICENSE SUBJECT TO EXPIRATION BUT CANNOT BE RENEWED; REINSTATEMENT FEES.

- (1) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but while the license remains suspended, and until it is reinstated, the renewal does not entitle the practice of acupuncture, or any other activity or conduct in violation of the order of the Board by which the license was suspended.
- (2) A revoked license is subject to expiration as provided in this chapter but it may not be renewed. If it is reinstated after its expiration, the former licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal fee date, if any, accrued at the time of its expiration.

§73-71-51. FEES.

- (1) The Board may charge reasonable fees for the following:
 - (a) Initial application fee for licensing;
 - (b) Written and practical examination not including the cost of the nationally recognized examination;

- (c) Biennial licensing renewal for acupuncture practitioners;
 - (d) Late renewal more than thirty (30) days, but not later than one (1) year, after expiration of a license, which late fee is in addition to any other fees;
 - (e) Reciprocal licensing fee;
 - (f) Annual continuing education provider registration fee; and
 - (g) Any and all fees to cover reasonable and necessary administrative expenses as established by the Council of Advisors in Acupuncture.
- (2) All fees shall be set forth in regulations duly adopted by the Board.
 - (3) All fees and other funds collected under this chapter shall be deposited into the special fund of the State Board of Medical Licensure.

§73-71-53. REPEAL OF SECTIONS 73-71-1 THROUGH 73-71-51.

Sections 73-71-1 through 73-71-51 of this act shall stand repealed on July 1, 2017.

Effective and in force from and after July 1, 2009; Amended July 1, 2013.

2.12 MISSISSIPPI PHYSICIAN ORDER FOR SUSTAINING TREATMENT (POST) ACT

§ 41-41-301. SHORT TITLE.

Sections 41-41-301 through 41-41-303 shall be known and may be cited as the "Mississippi Physician Order for Sustaining Treatment (POST) Act."

§ 41-41-302. PHYSICIAN ORDER FOR SUSTAINING TREATMENT

- (1) A physician order for sustaining treatment (POST) directing health care in the standardized form provided by this section may be executed by the primary physician of an individual and:
 - (a) The individual, if an adult or emancipated minor with capacity; or
 - (b) The agent, guardian, or surrogate having authority to make health care decisions on behalf of the individual if the individual is:
 - (i) An unemancipated minor; or
 - (ii) An adult or emancipated minor who lacks capacity.
- (2) The physician order for sustaining treatment shall be executed, implemented, reviewed, and revoked in accordance with the instructions on the form.
- (3) The State Board of Medical Licensure shall promulgate a standardized physician order for sustaining treatment form in accordance with the provisions in this section, adhering to the sequence in those provisions and using checkboxes to indicate the various alternatives. The board shall consult with appropriate professional and advocacy organizations in developing the physician order for sustaining treatment form, including the Mississippi Hospital Association, the Mississippi State Medical Association, Mississippians for Emergency Medical Services, the Mississippi Health Care Association, the Mississippi Independent Nursing Home Association, the Louisiana-Mississippi Hospice and Palliative Care Organization, Disability Rights Mississippi, Mississippi Right to Life, the Mississippi Bar Association and the Mississippi Section of American Congress of Obstetricians and Gynecologists.

The physician order for sustaining treatment form shall begin with an introductory section containing the name "POST, Physician Orders for Sustaining Treatment," the

patient's name, patient's date of birth, the effective date of the form followed by the statement "Form must be reviewed at least annually.", and containing the statements "HIPAA permits disclosure of POST to other health care professionals as necessary" and "This document is based on this person's current medical condition and wishes and is to be reviewed for potential replacement in the case of a substantial change in either. Any section not completed indicates preference for full treatment for that section."

(a) Section A of the form shall direct provision or withholding of cardiopulmonary resuscitation to the patient when he or she has no pulse and is not breathing by selecting one (1) of the following:

(i) Attempt Resuscitation (CPR); or

(ii) Do Not Attempt Resuscitation (DNR); and include the statement "When not in cardiopulmonary arrest, follow orders in B, C, and D."

(b) Section B of the form shall direct the sustaining treatment when the patient has a pulse or is breathing by selecting one (1) of the following:

(i) Full Sustaining Treatment, including the use of intubation, advanced airway interventions, mechanical ventilation, defibrillation or cardio version as indicated, medical treatment, intravenous fluids, and comfort measures. This option shall include the statement "Transfer to a hospital if indicated. Includes intensive care. Treatment Plan: Full treatment including life support measures";

(ii) Limited Interventions, including the use of medical treatment, oral and intravenous medications, intravenous fluids, cardiac monitoring as indicated, noninvasive bi-level positive airway pressure, a bag valve mask, and comfort measures. This option excludes the use of intubation or mechanical ventilation. This option shall include the statement "Transfer to a hospital if indicated. Avoid intensive care. Treatment Plan: Provide basic medical treatments"; or

(iii) Comfort Measures, including keeping the patient clean, warm, and dry; use of medication by any route; positioning, wound care, and other measures to relieve pain and suffering; and the use of oxygen, suction, and manual treatment of airway obstruction as needed for comfort. This option shall include the statement "Do not transfer to a hospital unless comfort needs cannot be met in the patient's current location (e.g., hip fracture)," and include a space for other instructions.

(c) Section C of the form shall direct the use of oral and intravenous antibiotics by selecting one (1) of the following:

(i) Antibiotics if life can be sustained;

(ii) Determine use or limitation of antibiotics when infection occurs;

- (iii) Use antibiotics only to relieve pain and discomfort; and include a space for other instructions.
- (d) Section D of the form, which shall have the heading "Medically Administered Fluids and Nutrition: Administer oral fluids and nutrition if physically possible," shall include the following options:
 - (i) Directing the administration of nutrition into blood vessels if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following:
 - 1. Total parenteral nutrition long-term if indicated;
 - 2. Total parenteral nutrition for a defined trial period, which option shall be followed by "Goal:" and a blank line; or
 - 3. No parenteral nutrition;
 - (ii) Directing the administration of nutrition by tube if physically feasible as determined in accordance with reasonable medical judgment by selecting one (1) of the following:
 - 1. Long-term feeding tube if indicated;
 - 2. Feeding tube for a defined trial period, which option shall be followed by "Goal:" and a blank line; or
 - 3. No feeding tube;and shall include a space for other instructions; or
- (iii) Directing the administration of hydration, if physically feasible as determined in accordance with reasonable medical judgment, by selecting one (1) of the following:
 - 1. Long-term intravenous fluids if indicated;
 - 2. Intravenous fluids for a defined trial period, which option shall be followed by "Goal:" and a blank line; or
 - 3. Intravenous fluids only to relieve pain and discomfort.
- (e) Section E of the form, which shall have the heading "Patient Preferences as a Basis for this POST Form," shall include the following:
 - (i) A direction to indicate whether or not the patient has an advance health-care directive as defined in Section 41-41-203 and if so, the date of the advance directive's execution, and, a certification that the physician order for sustaining

treatment is in accordance with the advance directive, followed by the printed name, position, and signature of an individual so certifying;

(ii) If the patient is an unemancipated minor, an indication of by which one or more of the following directions were given in accordance with Section 41-41-3:

1. Minor's guardian or custodian;
2. Minor's parent;
3. Adult brother or sister of the minor;
4. Class
5. Adult who has exhibited special care and concern for minor; and

(iii) If the patient is an adult or an emancipated minor, by which one or more of the following directions were given in accordance with Section 41-41-205, 41-41-211 or 41-41-213:

1. Patient;
2. Agent authorized by patient's power of attorney for health care;
3. Guardian of the patient;
4. Surrogate designated by patient;
5. Spouse of patient (if not legally separated);
6. Adult child of the patient;
7. Parent of the patient;
8. Adult brother or sister of the patient; or
9. Adult who has exhibited special care and concern for the patient and is familiar with the patient's values.

(f) A signature portion of the form, which shall include lines for the printed name, signature, and date of signing for:

(i) The patient's primary physician;

(ii) The individual or individuals described in paragraph (e)(ii) or (iii) of this subsection; and

(iii) The health care professional preparing the form, if other than the patient's primary physician, with contact information.

(g) A section entitled "Information for patient or representative of patient named on this form," which shall include the following language:

"The POST form is always voluntary and is usually for persons with advanced illness. POST records your wishes for medical treatment in your current state of health. Once initial medical

treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. An advance health-care directive is recommended for all capable adults and emancipated minors, regardless of their health status. An advance directive allows you to document in detail your future health care instructions and/or name a health-care agent to speak for you if you are unable to speak for yourself.

If this form is for a minor for whom you are authorized to make health-care decisions, you may not direct denial of medical treatment in a manner that would make the minor a 'neglected child' under Section 43-21-105, Mississippi Code of 1972, or otherwise violate the child abuse and neglect laws of Mississippi. In particular, you may not direct the withholding of medically indicated treatment from a disabled infant with life-threatening conditions, as those terms are defined in 42 USCS Section 5106g or regulations implementing it and 42 USCS Section 5106a."

(h) A section entitled "Directions for Completing and Implementing Form," which shall include the following four (4) subdivisions:

(i) The first subdivision, entitled "Completing POST," shall have the following language:

POST must be reviewed and prepared in consultation with the patient or the patient's representative.

POST must be reviewed and signed by a physician to be valid. Be sure to document the basis for concluding the patient had or lacked capacity at the time of execution of the form in the patient's medical record. The signature of the patient or the patient's representative is required; however, if the patient's representative is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient's representative must be placed in the medical record as soon as practicable and "on file" must be written on the appropriate signature on this form.

Use of original form is required. Be sure to send the original form with the patient.

There is no requirement that a patient have a POST.

(ii) The second subdivision, entitled "Implementing POST," shall have the following language: If a health care provider or facility is unwilling to comply with the orders due to policy or personal objections, the provider or facility must not impede transfer of the patient to another provider or facility willing to implement the orders and must provide at least requested care in the meantime

unless, in reasonable medical judgment, denial of requested care would not result in or hasten the patient's death.

If a health care provider or facility is unwilling to comply with the orders due to policy or personal objections, the provider or facility must not impede transfer of the patient to another provider or facility willing to implement the orders and must provide at least requested care in the meantime unless, in reasonable medical judgment, denial of requested care would not result in or hasten the patient's death.

If a minor protests a directive to deny the minor life-preserving medical treatment, the denial of treatment may not be implemented pending issuance of a judicial order resolving the conflict.

(iii) The third subdivision, entitled "Reviewing POST," shall have the following language:

This POST must be reviewed at least annually or earlier if;

The patient is admitted or discharged from a health care facility;

There is a substantial change in the patient's health status; or

The patient's treatment preferences change.

If POST is revised or becomes invalid, draw a line through Sections A-E and write "VOID" in large letters.

(iv) The fourth subdivision, entitled "Revocation of POST," shall have the following language:

(i) A section entitled "Review of POST," which shall include the following columns and a number of rows determined by the State Board of Medical Licensure:

(i) Review Date;

(ii) Reviewer and Location of Review;

(iii) MD/DO Signature (Required); and

(iv) Signature of Patient or Representative (Required).

(j) A section entitled "Outcome of Review," which shall include descriptions of the

outcome in each row by selecting one (1) of the following:

- (i) No Change;
- (ii) FORM VOIDED, new form completed; or
- (iii) FORM VOIDED, no new form.

§ 41-41-303. IMMUNITY, LIABILITY, PENALTIES AND EQUITABLE RELIEF

- (1) A physician or health-care provider acting in good faith and in accordance with generally accepted health-care standards applicable to the physician or health-care provider is not subject to civil or criminal liability or to discipline for unprofessional conduct for:
 - (a) Executing a physician order for sustaining treatment in compliance with a health-care decision of a person apparently having authority to make a health-care decision for a patient, including a decision to provide, withhold or withdraw health care;
 - (b) Declining to execute a physician order for sustaining treatment in compliance with a health-care decision of a person based on a belief that the person then lacked authority; or
 - (c) Complying with an apparently valid physician order for sustaining treatment on the assumption that the order was valid when made and has not been revoked or terminated.
- (2) A health-care provider or institution that intentionally violates Section 41-41-302 is subject to liability to the aggrieved individual for damages of Five Hundred Dollars (\$ 500.00) or actual damages resulting from the violation, whichever is greater, plus reasonable attorney's fees.
- (3) A person who intentionally falsifies, forges, conceals, defaces, or obliterates an individual's physician order for sustaining treatment or a revocation of a physician order for sustaining treatment without the individual's consent, or who coerces or fraudulently induces an individual to give, revoke, or not to give a physician order for sustaining treatment, is subject to liability to that individual for damages of Twenty-five Hundred Dollars (\$ 2,500.00) or actual damages resulting from the action, whichever is greater, plus reasonable attorney's fees.
- (4) On petition of a patient, the patient's agent, guardian, or surrogate, a health-care provider or institution involved with the patient's care, or surrogate for the patient as described in Section 41-41-229(2) or (3), any court of competent jurisdiction may enjoin or direct a health-care decision related to a physician order for scope of treatment, or

order other equitable relief. A proceeding under this section shall be governed by the Mississippi Rules of Civil Procedure.

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Mississippi State Board of Medical Licensure Policies

3.01 Contact Lens Prescriptions

Because of the potential for eye damage in an unsupervised setting, contact lens prescriptions should be given to patients only when the physician has reason to believe that adequate follow-up evaluation will be performed by a physician or optometrist.

Adopted January 20, 1994.

3.02 Corporate Practice of Medicine

Due to increased interest in the area of managed care and integrated health care systems, the Mississippi State Board of Medical Licensure recently had an opportunity to reconsider its policy as to the corporate practice of medicine. After full consideration, it is the policy of this Board not to concern itself with the form or type of business arrangements entered into by a licensee, provided certain prerequisites are met, to-wit:

1. The physician employed or associated with the entity is licensed by the Board.
2. The method and manner of patient treatment and the means by which patients are treated are left to the sole and absolute discretion of the licensed physician. The provision of medical services and the exercise of sound medical judgment at all times shall be exercised solely in the discretion of the licensed physician and he or she shall not be subject to any influence, direct or indirect, to the contrary.
3. The manner of billing and the amount of fees and expenses charged to a patient for medical services rendered shall be left solely to the discretion of the licensed physician. It is recognized that when physicians choose to affiliate with an HMO, PPO or other managed care entity, some discretion as to fees and expenses is lost. Whenever possible, however, the manner of billing and the amount of fees and expenses charged to a patient for medical services rendered shall be left solely to the discretion of the licensed physician.
4. At no time shall a physician enter into any agreement or arrangement whereby consideration or compensation is received as an inducement for the referral of patients, referral of medical services or supplies or for admissions to any hospital.
5. The business arrangement and the actions of the physician in relation thereto, cannot be contrary to or be in violation of the Medicare or Medicaid Payment and Program Protection Act of 1987, 42 U.S.C. Section 1320 (a-7)(b), commonly known as the "Medicare Anti-Kickback Statute"; the Anti-Kickback Act of 1986, 41 U.S.C. Section 5158, and related statutes, rules and regulations.
6. Free choice of physicians and hospitals is a right of every individual. One may select and change at will one's physician or hospital or may choose a medical care plan such as that provided by a closed panel or group practice or health maintenance organization (HMO) or service organization (PPO). While it is recognized that the choosing to subscribe to an HMO or PPO or accepting treatment in a particular hospital will result in the patient accepting limitations upon freedom of choice of medical services, all physicians must recognize that situations will exist where patients will be best served by physicians or hospitals outside such contractual arrangements. If the HMO or PPO contract or other business arrangement does not permit referral to a non-contracting medical specialist, diagnostic or treatment facility or hospital, and the physician believes that the patient's best interest will be served by a specialist, facility or hospital outside of the contractual relationship, the physician has an ethical and contractual obligation to

- inform the patient of this fact. The physician should so inform the patient so that the patient may decide whether to accept the outside referral at his or her own expense or confine herself or himself to the services available within the HMO, PPO or other business arrangement.
7. Licensed physicians shall have the sole responsibility for approval of any and all public communications or advertisements, and these communications and/or advertisements must be in full compliance at all times with Board requirements relating to Physician Advertisements.
 8. Pursuant to Miss. Code Ann. Section 79-10-31, shareholders of a professional corporation rendering medical services shall only be licensed physicians.

The above policy statement was adopted utilizing language set forth in the current opinions of the Council on Ethical and Judicial Affairs of the American Medical Association (Sections 8.13 and 9.06).

Revised by the Board of Medical Licensure on May 16, 1996, and September 20, 2001.

3.03 Complementary and Alternative Medicine

Complementary and Alternative Medicine is those health care methods of diagnosis, treatment, or interventions that are not acknowledged to be conventional but that may be offered by some licensed physicians in addition to, or as an alternative to, conventional medicine, and that provide a reasonable potential for therapeutic gain in a patient's medical condition and that are not reasonably outweighed by the risk of such methods.

The Mississippi State Board of Medical Licensure is aware that an increasing and significant number of citizens of Mississippi are seeking complementary and alternative medicine in their health care. The Board recognizes that physicians are increasingly incorporating complementary and alternative medicine in their care of patients. The Board recognizes that innovative practices that could benefit patients and improve care should be given reasonable and responsible degrees of latitude. Abusive criticism of alternative practitioners and threats to their licensure solely because they offer their patients an integrated practice will not be tolerated. On the other hand, the Mississippi State Board of Medical Licensure is aware of the Attorney General's findings that consumer fraud does occur in the practice of medicine. If consumer protection means anything, it should protect people weakened by illness from the dangers attendant to unsound, invalidated health practices. The Board is concerned with whether it is proper for physicians and providers to offer, agree to manage jointly or to accede to patient demands for alternative medicine that may not be particularly harmful, but for which little or no proof of potential benefit exist. The Board feels that physicians and providers should never accede to invalidated treatments. The Board does believe that physicians may incorporate nonvalidated treatments if research results are very promising, if the physician believes that a particular patient may benefit, if the risk of harm is very low, and if the physician adheres to the conventions that govern the doctrine of informed consent for nonvalidated treatment. The Board will continue to protect the citizens of the State of Mississippi by:

1. Ensuring that licensees employ and document the medical model in their overall evaluation and treatment of the patient (i.e., history, physical, diagnosis, plan of treatment, and periodic assessment and follow up).
2. Ensuring that the licensee has the requisite training and skills to perform the particular procedure.

3. Ensuring that licensees honestly and fully explain the various procedures available for treatment of the particular condition, to include the risk and benefits of such treatment option or procedure.

4. Carefully scrutinizing any treatment which results in harm to the patient.

The Board believes this policy finds support in traditional ethical principles and is not outweighed by the competing principle of patient autonomy.

Adopted January 18, 2001.

3.04 Application Valid for One Year

It is the policy of the Mississippi State Board of Medical Licensure that an application is valid for 365 days from date of receipt. After 365 days, if applicant has not received a permanent Mississippi medical license, the application file will be considered obsolete and applicant will have to reapply for licensure, including, but not limited to, all fees, certifications, verifications and references.

Adopted January 18, 2001.

3.05 Continuing Medical Education Exemption for Physicians in a Residency or Fellowship Program

Physicians participating in an ACGME approved residency or fellowship program for at least one year of the two year CME period may be exempt from acquiring the required forty hours of CME for renewal.

Adopted April 18, 2002.

3.06 Unreferred Diagnostic Screening Tests

It is the opinion of the Mississippi State Board of Medical Licensure that any medical act that results in a written or documented medical opinion, order or recommendation that potentially affects the subsequent diagnosis or treatment of a patient constitutes the practice of medicine in this state. Further, any physician who renders such a medical opinion, order or recommendation assumes a doctor-patient relationship with that patient and is responsible for continuity of care of that patient. Failure to provide this continuity of care will be deemed to be unprofessional conduct. The obligation to insure continuity of care does not apply in those instances where the physician rendering the medical opinion, order or recommendation has been called in by another treating physician solely for consultation purposes.

Adopted July 18, 2002. Amended January 15, 2003.

3.07 Internal Medicine/Pediatrics Combined Programs Accreditation

Information received from ACGME indicates that “combined programs” in Internal Medicine/Pediatrics are not accredited. It is the policy of the Board of Medical Licensure to accept these programs as accredited when both the internal medicine program and pediatrics program are independently accredited by the ACGME for training in each area.

Adopted September 18, 2002.

3.08 USMLE Step 3 Application and Fees

Mississippi rules and regulations require physicians making application with the Federation of State Medical Boards to sit for USMLE Step 3 in Mississippi to make application for a permanent Mississippi medical license. It is the policy of the Board of Medical Licensure that physicians requesting licensure by examination to submit an USMLE Step 3 permanent

medical licensure application along with a \$50 non-refundable fee. The \$50 non-refundable fee will be applied to the \$500 licensure fee once the application process has been completed. An applicant for USMLE Step 3 permanent medical licensure has one year from the application received date in which to pass Step 3, complete the licensure process and pay the remainder licensure fee of \$450. All applicants passing Step 3 but otherwise not meeting this deadline will have to reapply for permanent Mississippi medical licensure and pay the \$500 licensure fee. Physicians failing to pass USMLE Step 3 will not have to submit a new application for licensure to the Board if they reapply to sit for USMLE Step 3 within one year from the last sitting date, but will be required to pay a \$25 file reactivation fee for each time file has to be reactivated. The \$25 file reactivation fee will not be applied to the \$500 licensure fee.

Adopted September 18, 2002.

3.09 Re-Licensure After Surrender of Medical Licensure

Upon surrender of a medical license, whether reportable or non-reportable, the physician must submit his original licensure wall certificate and current wallet card. At the time of surrender, the physician's license will become null and void.

In the event a physician, who has surrendered his/her medical license, later desires to return to the practice of medicine in Mississippi, the physician must reapply for licensure on the same basis as though he/she never held a Mississippi medical license. Stated differently, the physician is then deemed an original applicant and will be subject to all laws and regulations governing applicants for licensure, including, but not limited to, completion of an application, proof of competency where required, verification that there are no statutory grounds for licensure denial, payment of all fees, and submission of all required certifications, verifications and references. Once the physician's application for licensure is completed the physician will be notified of his appearance date before the Board for re-licensure consideration.

Adopted March 19, 2003.

3.10 Research Fees

It is the policy of the Board of Medical Licensure to supply individuals who request information regarding their ancestors, a copy of the ancestor's medical license. There is no charge involved when there is one to five pages. If information for more than two physicians is requested, a research fee of \$25 will be assessed along with the copy charge of \$.50 per page.

Adopted March 19, 2003.

3.11 Final Sanctions by the Department of Health and Human Services for Default on Student Loans

Any and all final sanctions against a physician by the Department of Health and Human Services for default on a student loan will be considered unprofessional conduct, as referred to in Section 73-25-29, (8), and as such, subject to formal, disciplinary action.

Adopted June 17, 2003.

3.12 Medical Assistants

It is ethical for a physician to work in consultation with or employ allied health professionals, as long as they are appropriately trained to perform the activities being

requested.

Physicians have an ethical obligation to the patients for whom they are responsible to insure that medical and surgical conditions are appropriately evaluated and treated.

Physicians may teach in recognized schools for the allied health professionals for the purpose of improving the quality of their education. The scope of teaching may embrace subjects which are within the legitimate scope of the allied health profession and which are designed to prepare students to engage in the practice of the profession within the limits prescribed by law.

It is inappropriate to substitute the services of an allied health professional for those of a physician when the allied health professional is not appropriately trained to provide the medical services being requested.

The physician is the one ultimately responsible for all care given and should adhere to the following:

1. The physician should never delegate a task beyond the education and training of the medical assistant.
2. Direct and proper supervision should be provided at all times, which means that the physician should be in the clinic at all times during which the medical assistant is providing care.
3. The physician should advise his insurance carrier of the fact that he utilizes a medical assistant.
4. The medical assistant should never hold himself or herself out as either a physician, physician assistant, or nurse. When on duty, medical assistants shall at all times wear a name tag, placard or plate identifying themselves as medical assistants.

Adopted June 17, 2004.

3.13 Exemptions From Licensure (Team Physicians)

Mississippi licensure is not required for physicians employed by a sports entity visiting Mississippi for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Mississippi to medical treatment of the members, coaches, and staff of the sports entity that employs the physician.

Adopted November 9, 2006.

3.14 Policy of the Mississippi State Board of Medical Licensure as to the Confidentiality of Pending Disciplinary Matters

It is the policy of the Mississippi State Board of Medical Licensure to ensure the confidentiality of patient information and maintain the integrity of the investigative process. Accordingly, complaints received by the Board and any documents pertaining to pending disciplinary investigations and charges, including but not limited to summons issued by the Board, affidavits, and answers, shall be deemed confidential and shall not be released to the media or general public. The period of confidentiality shall end, however, upon the happening of any of the following events, hereinafter "public event", to-wit:

1. Upon the accused licensee executing a written release authorizing disclosure.

2. Upon the accused licensee making any public statement or disclosure about a disciplinary proceeding then pending.
 3. The disciplinary matter has been resolved by entry of a consent or agreed order, disciplinary in nature, and duly executed by licensee.
 4. A public hearing has been conducted before the Board or its Executive Committee.
- After a public event has occurred, the media and/or public shall be entitled to all public records as defined in the Public Records Act, codified as Miss. Code Ann. Sections 25-61-1 to 25-61-17. For the purpose of this policy, public records shall include all complaints, pleadings, exhibits, and disciplinary orders provided the identity of any patient or victim shall not be released without the express written consent of the patient/victim.

In the event an investigation is concluded without initiation of disciplinary action or charges are later dropped after initiation of disciplinary proceedings, all records of said investigation and proceedings shall remain confidential.

Unless placed into evidence at hearing, confidential investigative reports are not deemed public records.

Notwithstanding the above, orders of temporary action pending a disciplinary hearing entered pursuant to authority granted by Miss. Code Ann. Sections 73-25-63 or 73-25-89, shall be deemed public record when served on the licensee.

Nothing in this policy shall prohibit the release of information to any licensee or licensee's designated attorney pursuant to discovery as provided in Section 600 of the Board's Rules of Procedure.

Any member of the Board, its attorney, agents, employees, and staff shall have authority to share information with law enforcement officials or other administrative board or agency actively participating in an investigation concerning any alleged violation by a licensee of any federal or state law, rule or regulation.

Adopted January 19, 2006.

3.15 Administration of Botox Injections

(A Joint Policy by the Mississippi State Board of Medical Licensure and the Mississippi State Board of Nursing)

The Joint Committee of the Mississippi State Board of Medical Licensure (MSBML) and the Mississippi Board of Nursing (BON) has determined that the appropriately prepared Nurse Practitioner (NP) can administer Botox injections provided:

1. The NP is educated and competent in the use of Botox and the procedure being performed. This education and competence must be documented initially and on an ongoing basis;
2. The collaborative physician is educated in the use of Botox;
3. The NP's protocol addresses the administration of Botox;
4. The collaborative physician has examined the patient and documented the patient's chart approving the use of Botox; and
5. The NP practices according to generally accepted standards of practice.

Adopted September 20, 2007.

3.16 Policy for the Sale of Goods from Physician Offices

1. Due to the potential for patient exploitation in the sale of goods, physicians 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;
2. Physicians should make available disclosure information with the sale of any goods in order to inform patients of their financial interests;
3. Physicians may distribute goods free of charge or at cost in order to make such goods readily available; and
4. Physicians 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.

Adopted November 8, 2007.

3.17 Closing a Physician's Practice

When a physician ceases to practice, whether by relocation, retirement, disability, or death, certain obligations are due the patients of the physician. If relocation to another site in the same patient area, the problems are mainly logistical and making sure the patients know about the move. If leaving a partnership or group practice, the physicians remaining should not unduly hinder patient inquiries as to the location of the departing physician. Patients of the departing physician should be informed of the physician's new address and offered the opportunity to have their medical records sent to the departing physician at the new practice location. It is unethical to withhold such information upon a patient's request. If the closing is planned, as in the case of retirement, relatively few problems should be expected. However, if the closing is unexpected as in the case of disability or death, the situation is traumatic and full of problems that require quick solutions and answers.

Medical Records

One major problem that always arises when it becomes necessary to move or close a physician's office is what to do with patient records. Since these are important and confidential documents, they must be carefully preserved in some manner. If a physician is leaving the area and is in a partnership or group practice, it is customary to leave the records in the possession of the partners or group. If the physician is staying in the area, it is common practice to divide the records in some equitable manner. Most legal authorities are of the opinion that the medical records are the property of the partnership or group and not the individual physician. It is, however, the right of the patient to determine where the records or a copy of the records should go. Therefore, whether by relocation, retirement, disability or death, the patient should be advised of the right to have the medical records sent to the physician of their choice. Notification can be accomplished by a sign in the reception area, a note in the monthly billing statement, or an advertisement in a local newspaper. It is not advisable to turn the original records over to the patient. Charges to the patient are acceptable and few patients will object to a minimum charge for this service. It is considered less than professional to charge another treating physician for a copy of the patient's medical records. In any event, the records should not be unduly delayed.

Patient Notification

1. For patients under current care; i.e., taking a prescribed medication that requires refill

or having a prescheduled treatment or examination, special attention must be to notifying as quickly as possible that the physician is no longer available and that immediate arrangements for care need to be made. For those scheduled in the next 14 days, a phone call works best. Others may be notified by direct mail.

2. A letter in the monthly billing statement may be used. A notice of 30 days is considered reasonable time.
3. Referral to an appropriate physician for care may be in order.
4. A notice in a newspaper of general circulation for 3 or 4 weeks will notify past and present patients and the general public of the closing of the practice and the availability of medical records.

Adopted July 10, 2008.

3.18 Ending the Physician-Patient Relationship

Once a physician-patient relationship has begun, the physician is under both an ethical and legal obligation to provide services as long as the patient needs them. There may be times, however, when a physician may no longer be able to provide care. It may be that the patient is noncompliant, unreasonably demanding, threatening, or otherwise contributing to a breakdown of the relationship. The decision to terminate the relationship must be made by the physician alone.

Regardless of the situation, to avoid a claim of "patient abandonment", a physician must follow appropriate steps to terminate the physician-patient relationship. A physician may not discontinue treatment of a patient as long as further treatment is medically indicated, without giving the patient reasonable notice and sufficient opportunity to make other arrangements for care. A physician who does not terminate the relationship properly may be charged with unprofessional conduct.

Appropriate steps to terminate the physician-patient relationship include:

1. Giving the patient or patient's representative written notice, which may be by certified mail, return receipt requested, or other reasonable proof. A copy of the letter should be included in the medical record.
2. Providing the patient with a brief and valid reason for terminating the relationship.
3. Agreeing to continue to provide care for a reasonable period of time (at least 30 days) in order to allow the patient to obtain care from another physician.
4. Providing recommendations to help the patient locate another physician of like specialty.
5. Offer to transfer records to the new physician upon signed authorization and include an authorization form with the letter.
6. A physician assistant or nurse practitioner may not independently terminate the physician-patient relationship.

Adopted July 10, 2008.

3.19 Residents and Fellows

A physician in training (resident or fellow) may not enter into a relationship (collaborate or supervise) with a mid-level provider (APRN or PA) even though they may have an unrestricted license to practice in Mississippi.

Adopted November 13, 2013.