

EXECUTIVE COMMITTEE

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2011

**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
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.....	July
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Collura, Paul	January
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**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
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Corkern, Robert S	September
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Dudley, Patricia Lynn	July
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Fleischhauer, Thomas Frazee	July
.....	September
Garner, Daniel Creston	January
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Harron, Ray A	September
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JANUARY 2011

**MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 19, 2011**

MEMBERS PRESENT:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary

ALSO PRESENT:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Mickey Boyette, Investigator, Investigative Division
Jonathan Dalton, Investigator, Investigative Division
Sherry Harris, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, January 19, 2011, at 1:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

**PERSONAL APPEARANCE BY DAVID BERRY, M.D., FLOWOOD, MISSISSIPPI
MEDICAL LICENSE NUMBER 21038**

Dr. Craig advised that Dr. Berry had been invited to address concerns that the Board has with his non-compliance of an agreement that he had signed as a condition to obtaining his medical license, as well as concerns that Dr. Hambleton, Medical Director of the Mississippi Professionals Health Program (MPHP), has with his use of Suboxone.

Dr. Berry joined the meeting and was represented by Bobby Dallas, legal counsel. Dr. Berry had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference. Dr. Berry was also accompanied by Dr. Mart McMullan, practicing monitoring mentor, and his parents.

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After discussion from Dr. Hambleton and Dr. James Kramer, a board certified addictionologist, who is Dr. Berry's current Suboxone prescribing physician, Dr. Berry, Dr. McMullan, and Mr. Dallas all addressed the Executive Committee to make statements and respond to their questions. Following the discussion, Dr. Mayo thanked them for appearing today and advised that the Executive Committee would discuss the matter further and advise them of their decision.

Following a brief discussion, the Executive Committee unanimously agreed that Dr. Craig and Dr. Berry should meet and develop an agreement with specific requirements that must be met in order for Dr. Berry to continue the practice of seeing patients. Dr. Hambleton agreed that MPHP would continue to handle the drug screens. The Executive Committee agreed that the agreement would be considered a non-reportable agreement as long as Dr. Berry is in compliance, but should state that the agreement would become reportable if he fails to comply with all the terms and conditions.

PERSONAL APPEARANCE BY MALCOLM LOUIS LATOUR, SR., M.D., OCEAN SPRINGS, MISSISSIPPI MEDICAL LICENSE NUMBER 07901

Dr. Craig briefly discussed his concerns with Dr. Latour and advised that the Board had asked him to surrender his license or appear to discuss the concerns the Board has with his ability to continue safely practicing medicine.

Dr. Latour joined the meeting and was represented by Briley Richmond, legal counsel. Dr. Latour had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

Dr. Craig advised that the Board has concerns with the fact that he had written a prescription for a controlled substance without an examination or keeping any medical records. Discussion revealed that Dr. Latour has not been in active practice for at least fourteen (14) years, has not renewed his DEA certificate, or gotten any CME hours as required, even though he certified on his annual renewals that he had done so.

Dr. Mayo thanked Dr. Latour and his attorney for appearing and advised them that the Executive Committee would discuss the matter and advise them of their decision.

Following a brief discussion, the Executive Committee unanimously agreed that since Dr. Latour has fraudulently renewed his medical license, he should be advised that he needs to voluntarily surrender his medical license or appear before the full Board in a hearing to address the matter.

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**PERSONAL APPEARANCE BY WILLIAM D. OWEN, LAUREL, MISSISSIPPI
MEDICAL LICENSE NUMBER 06448**

Dr. Craig advised that Dr. Owen had been invited to appear to address a complaint that the Board had received stating that Dr. Owen was signing patients up for hospice without having ever seen and/or evaluating the patients.

Dr. Owen joined the meeting and was represented by Cynthia Stewart, legal counsel. Dr. Owen had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

Following a brief discussion with Dr. Owen, the Executive Committee unanimously agreed that Dr. Owen was indeed complying with the Federal regulations and that the complaint received was without merit. The matter was dismissed without any action.

DR. EASTERLING EXITED THE MEETING AT 3:30 P.M.

**PERSONAL APPEARANCE BY JE SONG, M.D., PICAYUNE, MISSISSIPPI MEDICAL
LICENSE NUMBER 17284**

Dr. Craig advised that he had invited Dr. Song to appear to discuss prescriptions for controlled substances that he had written while his medical license was expired. Dr. Song was a "no show." The Executive Committee unanimously agreed that Dr. Song should be summoned for a hearing at the March meeting before the full Board to discuss the matter.

**PERSONAL APPEARANCE BY JAMES BARRY GILLESPIE, M.D., GREENVILLE,
MISSISSIPPI MEDICAL LICENSE NUMBER 13268**

Dr. Craig advised that Dr. Gillespie had been invited to appear to address issues that were uncovered by our investigator, while working a complaint, concerning his collaboration with his nurse practitioner.

Dr. Gillespie joined the meeting and was not represented by legal counsel. Dr. Gillespie had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

The Board had requested that Dr. Gillespie bring a copy of the protocol that he had signed with his nurse practitioner, as well as copies of his chart reviews. Dr. Gillespie provided the requested information to the Executive Committee. Following a brief discussion, the Executive Committee thanked Dr. Gillespie for appearing and

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responding to their questions.

**PERSONAL APPEARANCE BY H. LEE RICHARDSON, JR., M.D., REFORM, AL,
MISSISSIPPI MEDICAL LICENSE NUMBER 10330**

Dr. Craig advised that the Alabama Board had disciplined Dr. Richardson. Since Dr. Richardson has an active Mississippi medical license and also works at Baptist Memorial Hospital - Golden Triangle, Columbus, MS., the Board had sent a proposed Consent Order to Dr. Richardson. Dr. Richardson requested to appear before the Executive Committee due to concerns that he had with the Consent Order as written.

Dr. Richardson joined the meeting and was represented by Dinetia Newman, legal counsel. Dr. Richardson had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

Following a brief discussion concerning the facts surrounding Alabama's Order and the fact that Dr. Richardson still has an unrestricted license and DEA in Mississippi, the Executive Committee thanked Dr. Richardson for appearing. Dr. Mayo advised Dr. Richardson that the Executive Committee will discuss the matter before advising him of their decision.

After further discussion, the Executive Committee unanimously agreed that their options were to either mirror Alabama's actions or to issue a Summons and have a hearing at the March Board meeting.

**DISCUSS PHYSICIAN ASSISTANTS WORKING IN MISSISSIPPI CLINICS /
HOSPITALS WHILE STUDENTS**

For informational purposes, Dr. Craig advised that he had been made aware of physician assistants from other states coming into Mississippi to perform clinical rotations without any approvals. Dr. Craig advised that he had sent an ExecNet and it seems from responses that no states are requiring any notification.

After a brief discussion, the Executive Committee unanimously agreed that they do not see an issue with the matter.

**FOLLOW-UP FROM PERSHARON M. DIXON, M.D., PASCAGOULA, MISSISSIPPI
MEDICAL LICENSE NUMBER 19475**

For informational purposes, Dr. Craig advised that Dr. Dixon had appeared at the November Executive Committee meeting and had been requested to confirm the distance of one of the clinics. Dr. Craig advised that he had received a letter from Dr.

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Dixon that states the distance between Coastal Family Health Center's Pass Christian Clinic and the Bay St Louis Clinic is eight (8) miles. Dr. Craig advised that this has been verified by one of the investigators while in the area.

REQUEST FROM KIANDOKHT PARTOVI, M.D., SOUTHAVEN, MISSISSIPPI MEDICAL LICENSE NUMBER 18636

Dr. Craig advised that Dr. Partovi had appeared at the November 17, 2010, Executive Committee meeting. Dr. Craig stated that at that time the Executive Committee had agreed to allow Dr. Partovi to continue practicing, but requested that she contact The Center for Personalized Education for Physicians (CPEP) in Denver, CO., and schedule an evaluation. Dr. Craig stated that he had received a letter from Dr. Partovi requesting that she be allowed to be re-certified in internal medicine rather than have the CPEP evaluation.

After a brief discussion, the unanimous decision of the Executive Committee was to advise Dr. Partovi that she needs to have the CPEP evaluation as instructed previously.

DISCUSS INFORMATION RECEIVED FROM PAUL COLLURA, M.D., LANCASTER, PA, MISSISSIPPI MEDICAL LICENSE NUMBER 20449

Dr. Craig briefly discussed a malpractice claim settlement that was received by the Board concerning sponges that were not discovered during the reads of the x-ray by Dr. Collura. After a brief discussion, the Executive Committee unanimously agreed that the Board should request additional information prior to making a decision.

OTHER BUSINESS

UPDATE ON CHARLES DAVID FINCH, JR., M.D., CLINTON, MISSISSIPPI MEDICAL LICENSE NUMBER 10768

For informational purposes, Dr. Craig advised that the Board had received a letter from Dr. Finch acknowledging his retirement from patient care.

UPDATE ON JOHN L. HERZOG, SR., M.D., GREENVILLE, MISSISSIPPI MEDICAL LICENSE NUMBER 09800

For informational purposes, Dr. Craig discussed a letter received from Dr. Herzog. Dr. Craig stated that Dr. Herzog is no longer at Delta Regional Medical Center but working in Indianola.

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After a brief discussion, the Executive Committee unanimously agreed to further investigate the matter. Also, a Summons will be delivered to Dr. Herzog requesting that he appear for a hearing at the March Board meeting.

EMAIL REQUESTING INFORMATION CONCERNING PHYSICIAN

Dr. Craig discussed an email that was received from an attorney requesting information free of charge when we normally charge \$25.00 for same information.

After a brief discussion, the Executive Committee unanimously agreed that the Board should charge for the requested information.

QUESTION CONCERNING CALVIN RAMSEY, M.D., LEXINGTON, MISSISSIPPI MEDICAL LICENSE NUMBER 07905

Dr. Craig briefly discussed the situation with Dr. Ramsey and his problems with tax evasion. After a brief discussion, the Executive Committee unanimously agreed to provide Dr. Ramsey the opportunity to appear in March before the full Board to request reinstatement of his medical license.

LUIZ G R DE LIMA, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 13447

Dr. Craig advised that the Board has received a complaint from a pharmacy that states that Dr. De Lima is prescribing Adderall for a female patient but then he is the one that picks up the prescription.

After a brief discussion, the Executive Committee unanimously agreed to invite Dr. De Lima to appear before the March Executive Committee to discuss why this is happening.

AGENDA FOR BOARD MEETING

Dr. Craig briefly reviewed the agenda for tomorrow's meeting.


ADJOURNMENT

There being no further business, the meeting adjourned at 4:50 p.m.

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WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed

by Sherry Harris

Staff Officer

January 19, 2011

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, David Berry, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to ~~discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received~~ ^{request} by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: BOBBY DALLAS)
 without legal counsel present

EXECUTED, this the 19 day of January, 2011.

Witness:

Sherry Harris

D. Berry

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, Malcolm Louis Latour, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

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4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: Riley Richmond)
 without legal counsel present

EXECUTED, this the 19 day of January 2011 2 PM. D.S.T.

Malcolm Latour, M.D.

Witness: [Signature]

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, William D. Owen, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

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with legal counsel present (name of counsel: CYNTHIA STEWART esq)
 without legal counsel present

EXECUTED, this the 19 day of JAN 2011.

Witness: _____

William D. Owen M.D.

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, James Barry Gillespie, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

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4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 19 day of January, 2011.

Witness:

Sherry Harris

B. Gillespie

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, H. Lee Richardson, Jr, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

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4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: Dorotic Newman)

without legal counsel present

EXECUTED, this the 19 day of Jan, 2011.

Witness: Dorotic Newman

BOARD

MEETING

MINUTES

**BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 20, 2011**

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, January 20, 2011, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary
Larry B. Aycock, M.D., McComb
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
Philip T. Merideth, M.D., J.D., Jackson
Charles D. Miles, M.D., West Point

Also present:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Frances Scott, Special Projects Officer, Investigative Division
Sherry Harris, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee
Charles Thomas, Yazoo City, Consumer Health Committee

Not present:

Cecil R. Burnham, Jackson, Consumer Health Committee

The meeting was called to order at 9:00 a.m. by Dr. Mayo, President. The invocation was given by Mr. Thomas and the pledge was led by Dr. Merideth. Dr. Mayo welcomed the Court Reporter, Debra A. Williams, and extended a welcome to all visitors present at the meeting.

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

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APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD NOVEMBER 01, 2010, THROUGH DECEMBER 31, 2010

One hundred sixty-two (162) licenses were certified to other entities for the period November 01, 2010, through December 31, 2010. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD NOVEMBER 01, 2010, THROUGH DECEMBER 31, 2010

Fifty-eight (58) licenses were issued for the period November 01, 2010, through December 31, 2010. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED NOVEMBER 17, 2010, AND MINUTES OF THE BOARD MEETING DATED NOVEMBER 18, 2010

Minutes of the Executive Committee Meeting dated November 17, 2010, and Minutes of the Board Meeting dated November 18, 2010, were reviewed. Dr. Easterling moved for approval of the minutes as submitted. Dr. Jones seconded the motion, and it carried unanimously.

REPORT OF JANUARY 19, 2011, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered the appearances and issues that were discussed/approved by the Executive Committee on January 19, 2011. Information pertaining to the Executive Committee decisions is included in the Executive Committee Minutes dated January 19, 2011.

Dr. Mayo stated that the Executive Committee moves that their actions/decisions be approved. The Board unanimously approved the actions taken by the Executive Committee.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Crawford (Chair), Dr. Easterling, Dr. Aycock, Dr. Miles, Dr. Brunson, Mr. Burnham, Mr. Thomas

Dr. Crawford advised that the Committee met this morning to introduce all the new committee members to the scope of practice issues.

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Professionals Health Program - Dr. Mayo (Chair), Dr. Merideth, Dr. Chance

Dr. Mayo advised that the Committee is currently working on the Memorandum of Understanding.

Rules, Regulation & Legislation - Dr. Easterling (Chair), Dr. Jones, Dr. Mayo, Dr. Chance, Mr. Breland

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

Ethics - Dr. Merideth (Chair), Dr. Crawford, Dr. Jones

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

Telemedicine / EHR - Dr. Aycock (Chair), Dr. Miles, Dr. Brunson

Dr. Aycock advised that he had a telephone conference with Dr. Miles and Dr. Brunson to discuss the proposed amendment changes to the Board's regulations pertaining to ***Prescribing, Administering and Dispensing of Medication***, as well as a letter the Board had received from Dr. Mal Riddell. Dr. Aycock briefly discussed the proposed changes to our current regulation and why Tramadol should not be removed from the prohibited electronic transmission list. Dr. Aycock advised that the proposal and vote to accept will be handled later in the meeting.

PRESENTATION FROM STAN INGRAM, COMPLAINT COUNSEL FOR THE BOARD

Mr. Ingram provided a very informative new member orientation to all of the Board members. Mr. Ingram discussed such things as the grounds for disciplinary actions, the due process requirements, fair hearings, and several of the "do's and don'ts" of serving as a Board member. Also, Mr. Ingram discussed the Open Meetings Law and advised the Board that there have been several bills introduced this year concerning this matter.

REQUEST FROM PHILIP HEMPHILL, PHD, LCSW, PROGRAM DIRECTOR, PROFESSIONAL ENHANCEMENT PROGRAM, PINE GROVE BEHAVIORAL HEALTH AND ADDICTIVE SERVICES

Dr. Mayo introduced and welcomed Dr. Hemphill to the meeting. Dr. Mayo advised that Dr. Hemphill was here today to request the Board's approval of their CME course on *Physician Professional Boundaries*.

BOARD MINUTES

January 21, 2011

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Dr. Hemphill briefly discussed the course and advised that it is accredited for 20 AMA PRA Category I credits through Forrest General Hospital. After answering questions from the Board members, motion was made by Dr. Easterling, seconded by Dr. Chance, and carried unanimously to approve the program and add to the Board's approved list.

PERSONAL APPEARANCE BY JAMES BENJAMIN BURKE, M.D., NATCHEZ, MISSISSIPPI MEDICAL LICENSE NUMBER 20064, TO REQUEST REMOVAL OF RESTRICTIONS ON LICENSE

Dr. Mayo advised that Dr. Burke had called and stated that he would not be appearing today as his advocate was ill, but would make another request to appear at a later date.

PERSONAL APPEARANCE BY DANIEL CRESTON GARNER, M.D., FRANKLIN, TN, MISSISSIPPI MEDICAL LICENSE NUMBER 16957, TO REQUEST APPROVAL OF CONSENT ORDER

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Garner and advised that he was here today to request approval of a Consent Order that the Board had sent to him that mirrors actions taken on his license by the Tennessee Board of Medical Examiners. Mr. Ingram briefly covered the Consent Order and advised that Dr. Garner has already signed the Order and was here today requesting the Board's approval.

Dr. Garner addressed the Board and answered several questions.

Motion was made to accept the Consent Order by Dr. Easterling, seconded by Dr. Miles, and carried unanimously.

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

PERSONAL APPEARANCE BY STEPHEN C. AYERS, M.D., LAKE CHARLES, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 14332, TO REQUEST APPROVAL OF CONSENT ORDER

Mr. Ingram introduced Dr. Ayers and advised that he was here today to request approval of a Consent Order that the Board had sent to him that mirrors actions taken on his license by the Louisiana Board of Medical Examiners. Mr. Ingram briefly covered the Consent Order and advised that Dr. Ayers has already signed the Order and was here today requesting the Board's approval.

BOARD MINUTES

January 21, 2011

Page 5

Dr. Ayers addressed the Board and answered several questions.

Motion was made to accept the Consent Order by Dr. Miles, seconded by Dr. Brunson, and carried unanimously.

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

**HEARING IN THE CASE OF STEVE MORRIS, III, M.D., LEAKESVILLE, MISSISSIPPI
MEDICAL LICENSE NUMBER 13836**

Mr. Ingram introduced Dr. Morris and his attorney, Karl Koch, as his lead counsel. Mr. Ingram briefly covered Dr. Morris' past history with the Board and advised that Dr. Morris was not denying the allegations, but was here today to clarify his' treatment relationship with the involved patient.

Mr. Ingram addressed the Board and made his opening comments and entered several exhibits into the record. Mr. Ingram summarized a chronological history of Dr. Morris and advised the reason Dr. Morris had been summoned to appear was due to violations of his Order of Reinstatement dated November 4, 2004.

Mr. Koch addressed the Board and stated that Dr. Morris was not denying that he had violated the Order but wanted to clarify several points concerning the treatment of a patient that is now deceased. Mr. Koch advised that Dr. Morris is mainly teaching at the University of South Florida and has a very limited practice.

Dr. Morris was called to the witness stand by his attorney and was sworn in by the court reporter. Mr. Koch questioned Dr. Morris and then he answered several questions from the Board members. After several questions concerning the patient file, Mr. Ingram placed the file into the record with the understanding that the file would be sealed and marked as confidential and not considered as public record. Mr. Ingram further advised that the name would be redacted from the file. Mr. Koch had no objection with the file being entered under these conditions. Mr. Koch also entered several respondent exhibits into the record.

Following several questions from Board members, motion was made by Dr. Easterling, seconded by Dr. Merideth, and carried unanimously that the Board enter into Executive Session to discuss a matter that may be appealable.

Upon a motion by Dr. Easterling, seconded by Dr. Jones, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board finds Dr. Morris exhibits poor judgment and is in violation of counts I and II of the

BOARD MINUTES

January 21, 2011

Page 6

summons. The Board continues the present restrictions concerning prescribing diet/weight control medications. Dr. Morris has the right to petition the Board after two (2) years to lift said restrictions. Also, the Board finds that Dr. Morris is in violation of the requirement to be under the care of a Board approved psychiatrist. The Board requires that this requirement be continued requiring that he remain under the care of the psychiatrist and that the psychiatrist submit quarterly reports to the Board. Dr. Morris may petition the Board after two (2) years for the lifting of this requirement.

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

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

DR. MERIDETH EXITED THE MEETING AT 12:20 P.M.

PROPOSED AMENDMENT CHANGES/ADDITION OF REGULATION PERTAINING TO *PRESCRIBING, ADMINISTERING AND DISPENSING OF MEDICATION*

Dr. Mayo advised that the proposed amendment changes had been discussed earlier in the meeting. Dr. Craig advised that there was an addition on the end of the regulation concerning pain management clinics.

After a brief discussion concerning the possibility of a registration fee for the pain management clinics, motion was made by Dr. Miles, seconded by Dr. Jones, and carried unanimously of the Board's intent to adopt the proposed amended regulation pertaining to *Prescribing, Administering and Dispensing of Medication*. A copy of the proposed regulation is attached hereto and incorporated by reference. The proposed regulation will be filed with the Secretary of State under the Administrative Procedures Act.

PROPOSED AMENDMENT CHANGES OF REGULATION CONCERNING *THE PRACTICE OF ACUPUNCTURE*

Dr. Craig briefly discussed the proposed amendment changes to the Board's regulation concerning *The Practice of Acupuncture*.

After a brief discussion, motion was made by Dr. Brunson, seconded by Dr. Chance, and carried unanimously of the Board's intent to adopt the proposed amended regulation concerning *The Practice of Acupuncture*. A copy of the proposed regulation is attached hereto and incorporated by reference. The proposed regulation will be filed with the Secretary of State under the Administrative Procedures Act.

BOARD MINUTES

January 21, 2011

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PROPOSED REGULATION CONCERNING *COMMUNITY-BASED IMMUNIZATION PROGRAMS*


Dr. Easterling briefly discussed the proposed regulation concerning *Community-Based Immunization Programs*. Dr. Easterling addressed the issue of the need for the physician to reside in Mississippi.

The Board responded to questions from Dinetia Newman, an attorney with Balch & Bingham. Ms Newman was present at today's meeting on behalf of one of her clients.

After a brief discussion, motion was made by Dr. Miles, seconded by Dr. Chance, and carried unanimously of the Board's intent to adopt the proposed regulation concerning *Community-Based Immunization Programs*. A copy of the proposed regulation is attached hereto and incorporated by reference. The proposed regulation will be filed with the Secretary of State under the Administrative Procedures Act.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:50 P.M., with the next scheduled meeting for Thursday, March 24, 2011.



WILLIAM S. MAYO, D.O.
PRESIDENT

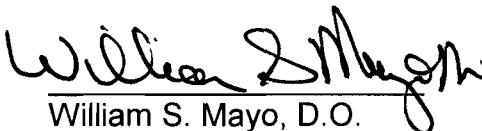
Minutes taken and transcribed
by Sherry Harris
Staff Officer
January 20, 2011

**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 20, 2011**

AGENDA ITEM: XIV. Hearing in the case of Steve Morris, III, M.D.

In a motion made by Dr. Aycock, seconded by Dr. Easterling, the Board unanimously finds that Dr. Morris exhibits poor judgement and is in violation of Counts I & II of the Summons and Affidavit. The Board continues present restrictions concerning prescribing diet/weight control medications. Dr. Morris has the right to petition the Board after 2 years to lift said restrictions.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			


William S. Mayo, D.O.
President

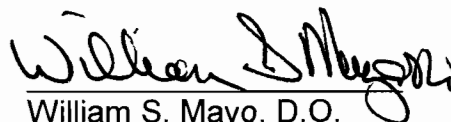
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 20, 2011**

AGENDA ITEM: XIV. Hearing in the case of Steve Morris, III, M.D.

In a motion made by Dr. Easterling, seconded by Dr. Jones, the Board unanimously finds that Dr. Morris is in violation of the requirement to be under the care of a Board approved psychiatrist. The Board requires that this requirement be continued requiring that Dr. Morris remain under the care of the psychiatrist. The psychiatrist is to submit quarterly reports to the Board. Dr. Morris may petition the Board after 2 years of the lifting of this requirement.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Easterling, seconded by Dr. Jones, the Board came out of Executive Session.


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

DANIEL CRESTON GARNER, M.D.

CONSENT ORDER

WHEREAS, Daniel Creston Garner, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 16957, issued October 2, 2000, for the practice of medicine in the State of Mississippi;

WHEREAS, on September 15, 2009, Licensee was placed on probation based on evidence that Licensee violated statutes or rules of the Tennessee Medical Practice Act, Tenn. Code Ann. § 63-6-101, Tenn. Comp. R. & Regs, and Tenn Code Ann. § 63-6-214(b)(1),(2) and (4). Licensee consented and agreed to the entry of the Consent Order he executed on August 10, 2009. The Tennessee Board of Medical Examiners Consent Order is attached hereto as composite "Exhibit A," and incorporated herein by reference;

WHEREAS, pursuant to Subsections (8)(d) and (9) of Section 73-25-29, Mississippi Code (1972), Annotated, the aforementioned actions by the Tennessee Board of Medical Examiners constitutes restrictions placed on his license in another jurisdiction, grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby indefinitely suspend Licensee's Certificate No. 16957, with the suspension stayed subject to the following probationary terms and conditions:

1. Licensee shall strictly comply with all of the terms and conditions of probation on his license to practice medicine in the State of Tennessee. In the event Licensee fails to comply with any conditions imposed on him by the State of Tennessee, the stay of suspension of his license shall be immediately removed and Licensee shall be prohibited from practicing medicine until such time as a determination is made by the Mississippi State Board of Medical Licensure that Licensee is again ready to return to the practice of medicine. Summary suspension pursuant to this paragraph shall be for an indefinite period of time, notwithstanding any term or right to petition for reinstatement provided herein.
2. Licensee shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.
3. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.
4. Licensee shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss Code Ann. §73-25-30. Licensee shall be advised of the total assessment by separate written notification and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure, on or before forty (40) days from the date Licensee receives the aforementioned notification.

Licensee shall have the right, but not the obligation, to petition the Board for removal of any or all of the restrictions imposed herein at such time as he has successfully completed all terms and conditions as required by the Tennessee Board of Medical Examiners and is released therefrom by order of the Tennessee Board. At such time as Licensee petitions this Board for removal of any or all of the restrictions imposed herein, the Board reserves the right, in its sole and absolute discretion, to utilize any information or reports from either the Tennessee Board of Medical Examiners or any other source, to impose any other restrictions it deems necessary to protect the public.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

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


Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Daniel Creston Garner, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby indefinitely suspending his license to practice medicine in the State of Mississippi for an indefinite period of time, staying the suspension, subject to those terms and conditions enumerated above.

Executed, this the 21st, day of December, 2010.



Daniel Creston Garner, M.D.

ACCEPTED AND APPROVED, this the 20th, day of January,
2011, by the Mississippi State Board of Medical Licensure.



William S. Mayo, D.O.
President

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE
)	BOARD OF MEDICAL EXAMINERS
DANIEL C. GARNER, M.D.)	
RESPONDENT)	CASE NO.: 2009003891
)	
TENNESSEE LICENSE NO.: 37114)	

CONSENT ORDER

Comes now the Division of Health Related Boards of the Tennessee Department of Health ("State"), by and through the Office of General Counsel, and Respondent, Daniel C. Garner, ("Respondent"), and respectfully moves the Tennessee Board of Medical Examiners ("Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. TENN. CODE ANN. § 63-6-101, *et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining medical doctors who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation of Rules and Regulations of the State of Tennessee ("TENN. COMP. R. & REGS.").

The Respondent, by his signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that

EXHIBIT A

presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

L. STIPULATIONS OF FACT

1. The Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted license number 37114 on December 16, 2002.
2. Respondent failed to have adequate training, education and experience to supervise the performance of laser treatments or to act as medical director for Dermacare of Cool Springs.
3. Respondent allowed individuals to practice medicine without a license or to practice beyond the scope of their license.

II. GROUNDS FOR DISCIPLINE

4. The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, TENN. CODE ANN. § 63-6-101, *et seq.* and TENN. COMP. R. & REGS for which disciplinary action before and by the Board is authorized:
5. The facts stipulated in paragraphs 2 and 3, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1), (2) and (4):
 - (1) Unprofessional, dishonorable or unethical conduct;
 - (2) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or any lawful order of the board issued pursuant thereto, or any criminal statute of the state of Tennessee;
 - (4) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of medical practice.

III. POLICY STATEMENT

The Tennessee Board of Medical Examiners takes the following action in order to protect the health, safety and welfare of the citizens of the State of Tennessee.

IV. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

- 1) Respondent's Tennessee Medical License is hereby placed on **PROBATION** for a period of not less than two (2) years.
- 2) Respondent is assessed two (2) Type "A" Civil Penalties in the amount of one thousand

dollars (\$1,000.00) for a total of two thousand dollars (\$2,000.00), representing two (2) violations of law found in paragraphs 2 and 3 of the findings of fact.

- 3) Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the TENN. COMP. R. & REGS., the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Affidavit of Costs prepared and filed by counsel for the Department. Said costs shall not exceed four thousand five hundred dollars (\$4,500.00).
- 4) Any and all costs shall be paid in full within thirty (30) days after the issuance of the Affidavit of Costs. Payment shall be made by certified check, cashier's check, or money order, payable to the State of Tennessee, Department of Health. Any and all payments shall be forwarded to the **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, Heritage Place Metro Center, 227 French Landing, Suite 201, Nashville, Tennessee 37243**. A notation shall be placed on said money order or such check that it is payable for the Affidavit of Costs of Daniel Garner, M.D., Case No. 2009003891.
- 5) Any and all civil penalties shall be paid in full within thirty (30) days of the entry of this Order. Payment shall be made by certified check, cashier's check, or money order, payable to the State of Tennessee, Department of Health. Any and all payments shall be forwarded to the **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, Heritage Place Metro Center, 227 French Landing, Suite 201, Nashville, Tennessee 37243**. A notation shall be placed on said

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

STEPHEN C. AYERS, M.D.

CONSENT ORDER

WHEREAS, Stephen C. Ayers, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 14332, issued May 8, 1995, for the practice of medicine in the State of Mississippi;

WHEREAS, on June 22, 2010, Licensee was placed on probation based on evidence that Licensee violated the Louisiana Board of Medical Examiners' Rules and Regulations regarding Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain, and La. Rev. Stat. §§ 37:1285(A) (6), (14), and (30); La. Admin. Code: 46:XLV.6915-23. The Louisiana Board of Medical Examiners Consent Order is attached hereto as composite "Exhibit A," and incorporated herein by reference;

WHEREAS, pursuant to Subsections (8)(d) and (9) of Section 73-25-29, Mississippi Code (1972), Annotated, the aforementioned actions by the Louisiana Board of Medical Examiners constitutes restrictions placed on his license in another jurisdiction, grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby indefinitely suspend Licensee's Certificate No. 14332, with the suspension stayed subject to the following probationary terms and conditions:

1. In the event Licensee practices in Mississippi he shall not be permitted to order, manufacture, distribute, possess, dispense, administer or prescribe any controlled substances in Schedules II, IIN, III, and IIIN as stipulated by the Louisiana Board of Medical Examiners until such time as he is released by order of the Louisiana Board.

2. In the event Licensee practices in Mississippi he is prohibited from practice in the field of management of chronic pain or in the treatment of obesity as stipulated by the Louisiana Board of Medical Examiners until such time as he is released by order of the Louisiana Board.

3. Licensee shall strictly comply with all of the terms and conditions of probation on his license to practice medicine in the State of Louisiana. In the event Licensee fails to comply with any conditions imposed on him by the State of Louisiana, the stay of suspension of his license shall be immediately removed and Licensee shall be prohibited from practicing medicine until such time as a determination is made by the Mississippi State Board of Medical Licensure that Licensee is again ready to return to the practice of medicine. Summary suspension pursuant to this paragraph shall be for an indefinite period of time, notwithstanding any term or right to petition for reinstatement provided herein.

4. Licensee shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.

5. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.

6. Licensee shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss Code Ann. §73-25-30. Licensee shall be advised of the total

assessment by separate written notification and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure, on or before forty (40) days from the date Licensee receives the aforementioned notification.

This Consent Order is in lieu of and supersedes the Consent Order dated January 21, 1999, which was based on action taken by the Louisiana Medical Board of Examiners on October 22, 1997.

Licensee shall have the right, but not the obligation, to petition the Board for removal of any or all of the restrictions imposed herein at such time as he has successfully completed all terms and conditions as required by the Louisiana Board of Medical Examiners and is released therefrom by order of the Louisiana Board. At such time as Licensee petitions this Board for removal of any or all of the restrictions imposed herein, the Board reserves the right, in its sole and absolute discretion, to utilize any information or reports from either the Louisiana Board of Medical Examiners or any other source, to impose any other restrictions it deems necessary to protect the public.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute

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

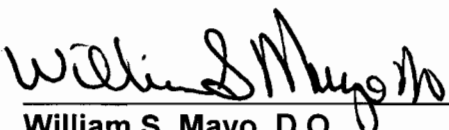
Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Stephen C. Ayers, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby indefinitely suspending his license to practice medicine in the State of Mississippi for an indefinite period of time, staying the suspension, subject to those terms and conditions enumerated above.

Executed, this the 29, day of December, 2010



Stephen C. Ayers, M.D.

ACCEPTED AND APPROVED, this the 20th, day of January, 2011, by the Mississippi State Board of Medical Licensure.



William S. Mayo, D.O.
President

RECEIVED

AUG 23 2010

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

MS STATE BOARD OF MEDICAL LICENSING

630 Camp Street, New Orleans, LA 70130
General Correspondence Address: Post Office Box 30250, New Orleans, LA 70190-0250
www.lsbme.org

Telephone: (504) 568-6820
FAX: (504) 568-8893
Writer's Direct Dial:



Ext. _____

BEFORE THE
LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

-----X

IN THE MATTER OF:

Stephen Christopher Ayers, M.D.
(Certificate No. 02129),
Respondent

08-I-572

CONSENT ORDER

-----X

Stephen Christopher Ayers, M.D. ("Dr. Ayers") is, and at all times pertinent, has been a physician licensed to practice medicine in the State of Louisiana, as evidenced by Certificate No.02129, which initially was issued in 1991.

The Louisiana State Board of Medical Examiners ("the Board"), through its Director of Investigations ("DOI") initiated an investigation of Dr. Ayers' medical practice upon receiving information from a Lafayette Parish Coroner's investigator regarding two of Dr. Ayers' patients who had died of prescription drug overdoses. The Board obtained and reviewed pharmacy profiles and patient medical records with respect to Dr. Ayers' prescribing practices since his license was reinstated in 2000 following a three-year period of probation.¹ The Board's investigation revealed that Dr. Ayers has engaged in a pattern of practice that violated the Board's Rules Regarding Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain. In particular, it appears from the documentation in Dr. Ayers' patient records

¹ **AYERS, STEPHEN C., M.D. Charges:** Prescribing, dispensing or administering controlled substances without legitimate medical justification; unprofessional conduct; knowingly performing an act which assists an unlicensed person to practice medicine, or having professional connection with, or lending one's name to an illegal practitioner; violation of the dispensing rules of the Board, La. R.S. § 37:1285(A)(6), (13), (18), (30). **Disposition:** Consent Order entered October 22, 1997. Physician's license placed on probation for five years, lifetime revocation and cancellation of dispensing registration, lifetime prohibition to ownership or revenue from any business from which drugs are dispensed, periodic reports to the Board from director of medical residency training program attesting to the physician's continued good standing and successful completion of such program, payment of a fine of \$5,000, and completion of specified continuing medical education. The residency program was completed and the probation ended after three (3) years.

EXHIBIT A

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LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of
Stephen C. Ayers, M.D.

CONSENT ORDER

that he often failed to: evaluate patients sufficiently before prescribing them large doses and quantities of controlled substances, formulate individualized patient treatment plans, properly utilize drug screens, refer patients, and document that other medically reasonable alternative treatments for pain relief had been offered or attempted without adequate or reasonable success before prescribing narcotic pain medications. Additionally, Dr. Ayers' medical records demonstrate a failure to assess the efficacy of patients' treatment and assure that controlled substance therapy remained indicated throughout the course of their treatment.

Predicated upon the information outlined above, the DOI determined that a reasonable basis exists for recommending that a formal Administrative Complaint be filed against Dr. Ayers, charging him with violation of the Louisiana Medical Practice Act (the "Act") and the Board's Rules.²

As evidenced by his subscription hereto, Dr. Ayers, without admitting any violation of the Act or the Board's rules, or of any other state or federal law or regulation, nevertheless acknowledges that the foregoing information would constitute a reasonable basis for the institution of administrative proceedings against his medical licensure, pursuant to Administrative Complaint, and that proof of such information upon administrative evidentiary hearing may establish grounds under the Act for the suspension or revocation of his license to practice medicine in the State of Louisiana, or for such other action as the Board might deem appropriate.

Recognizing his right to have an administrative adjudication of such charges, at which time Dr. Ayers would be entitled to be represented by legal counsel, to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges made, and to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La. Rev. Stat. §§ 49:955-965, Dr. Ayers, nonetheless, hereby waives his right to formal adjudication and, pursuant to La. Rev. Stat. § 49:955(D), consents to entry of the Order set forth hereinafter. Dr. Ayers also acknowledges that he hereby waives any right that he may have under the Louisiana Administrative Procedure Act, La. Rev. Stat. § 49:951, *et seq.*, or that he otherwise may be afforded by any law, to contest (1) his consent to the entry of this Order, (2) the Board's investigation, or (3) the force and effect of this Order, in any court or other forum. By his subscription hereto, Dr. Ayers also hereby authorizes the Investigating Officer designated by the Board with respect hereto, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation, and he waives any objection to such disclosures under La. Rev. Stat. § 49:960. Dr. Ayers expressly acknowledges that the disclosure of such information to the Board by the Investigating Officer shall be without prejudice to the Investigating Officer's authority to proceed with the filing and adjudication of an administrative complaint against him, or to the Board's capacity to adjudicate

² See La. Rev. Stat. §§ 37:1285(A) (6), (14), and (30); LA. ADMIN. CODE 46:XLV.6915-.6923.

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such complaint, should the Board decline to approve this Consent Order.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by La. Rev. Stat. § 37:1285 and La. Rev. Stat. § 49:955(D);

IT IS ORDERED that the license of Stephen C. Ayers, M.D. to engage in the practice of medicine in the State of Louisiana, as evidenced by Certificate No. 02129, be and the same is hereby **SUSPENDED** for a period of **six (6) months** effective from the date this Order is signed by the President of the Board.

IT IS FURTHER ORDERED that the said suspension is hereby **STAYED** and that the license of Stephen C. Ayers to engage in the practice of medicine in the State of Louisiana is placed **ON PROBATION** for a period of **five (5) years** from the date this order is signed by the President of the Board (the "probationary period"); *provided, however*, that Dr. Ayers' license to practice medicine and his continuing exercise of the rights and privileges granted to him thereby, shall be conditioned upon and subject to his acceptance of and strict compliance with the following terms, conditions and restrictions:

(1) Prohibitions on Practice – Management of Chronic Pain and Use of Medications in the Treatment of Obesity. At no time following the effective date of this Order shall Dr. Ayers practice medicine in the field of management of non-cancer-related chronic or intractable pain ("chronic pain") or in the treatment of obesity. More specifically, at no time following the effective date of this Order shall Dr. Ayers hold himself out as being engaged in the treatment of or actually undertake to treat, either individually or in conjunction with any other physician, any patient in the long-term management of chronic pain (beyond twelve weeks in any twelve month period) or obesity, nor shall he receive any remuneration from, have any ownership interest in or association with any clinic or practice setting or arrangement that renders care and/or treatment to patients for chronic pain or obesity as a chronic pain or obesity clinic or any clinic that advertises or holds itself out to the public as a clinic or practice for the care and/or treatment of patients for chronic pain or obesity. Dr. Ayers also agrees that he will discontinue all prescribing, administration, and use of any medications for weight control or weight reduction in the medical treatment of obesity following the effective date of this Order. Until and unless otherwise modified by the Board, in its sole discretion, the restrictions contained in this provision shall survive the probationary period and remain in effect so long as Dr. Ayers shall hold any form of license or permit to practice medicine in the state of Louisiana.

(2) Prescription and Administration of Controlled Substances Prohibited. Except as authorized herein, Dr. Ayers shall not prescribe or administer (i) any substance which may be classified, defined, enumerated or included in 21 C.F.R.

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§§1308.11-.15 or La. Rev. Stat. §40:964, as a Schedule II or III controlled substance; or (ii) any substance which may hereafter be designated as one of the foregoing controlled substances by amendment or supplementation of such regulations and statute. The prohibitions contained in this paragraph shall not prohibit Dr. Ayers from ordering any controlled substance for administration to inpatients (i.e., patients who are admitted to a hospital or who are treated in the emergency department and who are administered controlled substances on-site at the hospital) of and at a hospital where he may be employed or exercise staff or clinical privileges in accordance with his or such hospital's controlled substance license and registration and with such hospital's prescribed policies and procedures governing the administration of controlled substances. Additionally, Dr. Ayers may petition the Board, after completion of one (1) full year of the probationary period, to amend the Order to permit him to prescribe Suboxone for oral administration to patients diagnosed with substance abuse or dependence. Should the Board permit Dr. Ayers to prescribe Suboxone, which the Board may permit or deny in its sole discretion, such prescribing shall be in accordance within the Substance Abuse & Mental Health Services Administration ("SAMHSA") Guidelines for the use of Suboxone in the treatment of substance abuse and dependence. At the conclusion of the probationary period, Dr. Ayers may request restoration of his prescribing privileges upon certification to the Board of his attendance and completion of the Board-approved course as stated in paragraph 5 hereof, and provided the Board finds that Dr. Ayers has fully complied with all other aspects of this Order.

(3) Fine. The Board hereby imposes an administrative fine in the amount of \$5,000.00 against Dr. Ayers. The fine shall be paid within one hundred twenty (120) days of the effective date of this Order. Dr. Ayers acknowledges that the timely payment of the fine and timely confirmation of receipt of the payment by the Board is his legal obligation and responsibility, and he agrees to cease practicing if the fine is not timely received at the Board office as agreed to in this Order.

(4) Personal Appearance before the Board. Prior to the consideration of this Consent Order, Dr. Ayers shall personally appear before the Board or its designee to permit the Board to discuss with him his understanding of and intent to comply with the terms of this Order and to advise the Board of his intentions with respect to his continued practice of medicine.

(5) Attendance at Approved Seminar. Prior to the conclusion of the probationary period, Dr. Ayers shall attend and complete one or more courses of study of no less than twenty-five (25) credit hours, pre-approved by the Board, which address the appropriate prescribing of controlled substances, the creation and maintenance of adequate medical records, appropriate medical boundaries and medical ethics.

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(6) **Continuing Medical Education.** Dr. Ayers also shall obtain not less than fifty (50) credit hours per year for each year of the probationary period through attendance at and participation in continuing medical education programs ("CME") accredited by and qualifying for the Physician's Recognition Award of the American Medical Association, and he shall obtain such award within the probationary period. On or before the anniversary date of each year for the five (5) years following the effective date of this Order, Dr. Ayers shall cause to be submitted to the Board written certification of the CME programs and credits completed by him during the preceding twelve (12) months.

(7) **Absence from State/Practice/Effect on Probation.** Should Dr. Ayers at any time during the period of probation ordered herein be absent from the state of Louisiana, relocate to and/or take up residency in another state or country, or discontinue practicing medicine, for a period of thirty (30) days or more, he will advise the Board in writing. In such instance, the probationary period ordered herein and all terms, conditions and restrictions thereof, shall be deemed interrupted and extended and shall not commence to run until Dr. Ayers notifies the Board in writing that he has returned to, relocated or taken up residency in, or resumed the practice of medicine in the State of Louisiana. In such instance, Dr. Ayers shall not receive credit toward completion of the probationary period for the time during which he was absent from the State of Louisiana or while he was not engaged in the practice of medicine.

(8) **Notification.** Dr. Ayers shall provide a complete copy of this Order to each hospital, clinic, facility or other employer or prospective employer at which or for whom he provides services as a physician in this state.

(9) **Cooperation with Board's Probation and Compliance Officer.** Dr. Ayers shall immediately notify the Board's Probation and Compliance Officer of any change in his current home and professional addresses and telephone numbers and he shall direct all matters required pursuant to this Consent Order to the attention of the Probation and Compliance Officer, with whom he shall cooperate on all matters and inquiries pertaining to his compliance with the terms, conditions and restrictions of this Consent Order.

(10) **Probation Monitoring Fee.** For each year of the probationary term Dr. Ayers shall pay the Board a probation monitoring fee of Three Hundred (\$300.00) Dollars. Payment of the initial fee shall be due not later than sixty (60) days from the effective date of this Order. All subsequent annual payments shall be due on or before the anniversary date of the initial fee payment.

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LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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(11) Certification of Compliance with Probationary Terms/Personal Appearance before the Board. At least sixty (60) days prior to the conclusion of the probationary term imposed herein, Dr. Ayers shall provide the Board with an affidavit certifying that he has complied with each of the terms of probation imposed by this Order and he shall contact the Board and arrange for a personal appearance before the Board at its meeting preceding the expiration of his probationary term.

(12) Sanction. By his subscription hereto, Dr. Ayers acknowledges that his receipt of written notification that the Board has received an apparently reliable report which indicates his failure to comply with the requirements set forth by this Order in any respect shall, without the need for formal hearing or for providing him with any right to which he may otherwise be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951, *et seq.*, or which otherwise may be afforded to him by law, constitute his irrevocable consent to the immediate suspension of his license to practice medicine in this state. In the event of suspension under this provision, Dr. Ayers acknowledges that he shall not resume the practice of medicine in this state until and unless the Board issues and serves on him a written order reinstating his license following: (i) the Director of Investigation's receipt of Dr. Ayers' written response to the alleged facts constituting the apparently reliable report of his failure to comply with the requirements of this Order; (ii) Dr. Ayers' meeting at the Board office with the Director of Investigations to discuss his alleged transgressions of the Order and potential recommendations for disposition; and (iii) (a) the conclusion of administrative proceedings following an administrative hearing and final decision issued by the Board on any charges made the basis of his suspension or that may be filed in these proceedings; or, (b) alternatively, by the Board's acceptance of a superseding consent or other order or recommendation respecting disposition of such charges.

(13) Effective Date. This Consent Order shall be effective the date it is approved and accepted by the Board as shown by the signature of its representative below.

IT IS FURTHER ORDERED that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Dr. Ayers shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for the revocation and cancellation of Dr. Ayers' license to practice medicine in the state of Louisiana or for such other action as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. § 37:1285.

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LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of
Stephen C. Ayers, M.D.

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IT IS FURTHER ORDERED that this Consent Order shall be, and shall be deemed to be, a public record.

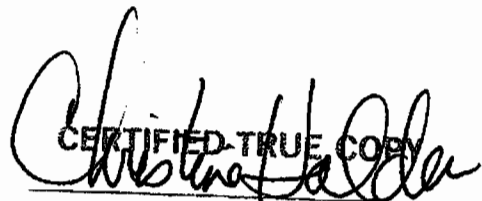
New Orleans, Louisiana, thus Done, Signed and Effective on this 22 day of June, 2010.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS



BY:

Robert E. Dawson, M.D.
Vice President



CERTIFIED TRUE COPY

Docket Clerk

Louisiana State Board of Medical Examiners

Date 8-20-10

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MS STATE BOARD OF
MEDICAL LICENSING

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of
Stephen C. Ayers, M.D. CONSENT ORDER 8

ACKNOWLEDGMENT AND CONSENT

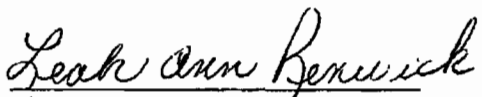
STATE OF LOUISIANA

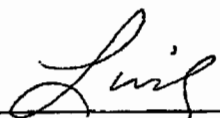
PARISH OF EAST BATON ROUGE

I, Stephen C. Ayers, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 21ST day of MAY, 2010.

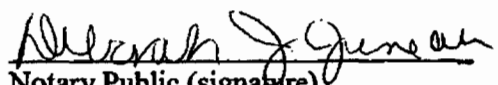

STEPHEN C. AYERS, M.D.

WITNESSES:


Signature
Leah Ann Benwick
Printed Name
11811 CHL Rd # 75
BATON ROUGE, LA 70809
Address


Signature
LINDA G. RODRIGUE
Printed Name
ONE AMERICAN PLACE 22ND FLOOR
301 MAIN STREET
BATON ROUGE, LA 70801
Address

Sworn to and subscribed before me at Baton Rouge, Louisiana, this 21ST day of May, 2010, in the presence of the two stated witnesses.


Notary Public (signature)

Deborah J. Juneau
Printed Name/Notary or La. Bar No. # 26354

My commission is for life.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

STEVE MORRIS, III, M.D.

ORDER

THIS MATTER came on regularly for hearing on January 20, 2011, before the Mississippi State Board of Medical Licensure (hereinafter referred to as the "Board"), pursuant to Title 73, Chapter 25, Miss. Code (1972) Annotated. The Board initiated these proceedings on November 18, 2010, by issuance of a Summons against Steve Morris, III, M.D. (hereinafter referred to as "Licensee"), with attached Affidavit from Jonathan Dalton, Investigator. The affidavit set forth two (2) counts of violations of Miss. Code Ann. Section 73-25-29(13) as more fully set out below. In his answer to the charges as filed, Licensee petitioned the Board for removal of the current prohibition against Licensee prescribing medications for treatment of obesity, weight loss or weight control. Based upon the evidence and testimony presented, the Board renders the following Findings of Fact, Conclusions of Law, and Order.

FINDING OF FACT

1. Steve Morris, III, M.D., hereinafter referred to as "Licensee," is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 13836. Said license is current until June 30, 2011.
2. A records check on July 20, 2010, with the U.S. Drug Enforcement Administration (DEA), indicated that Licensee's Uniform Controlled Substance Registration Certificate No. BM9082215 was issued on January 3, 2008, with an expiration date of January 1, 2011, and includes prescriptive authority in schedules II, IIN, III, IIIN, IV, and V.
3. Licensee's certificate to practice medicine is currently subject to that certain Order of Reinstatement rendered by the Board on November 4, 2004, (hereinafter "Order") which restricts Licensee's practice in certain areas. One such restriction prohibits Licensee from performing breast surgery, including breast augmentation and breast reduction. The Order also prohibits Licensee

from prescribing controlled substances for weight loss, specifically, "Licensee shall not prescribe, dispense, or administer any controlled substances for treatment of obesity, weight loss, or weight control."

4. From and after November 4, 2006, Licensee had the right to request removal of all or part of the restrictions imposed by virtue of the Order. Licensee has failed to request an appearance before the Board to ask for rescission of any portion of the stated Order. Therefore, all restrictions remain current.

5. An inspection of pharmacy records revealed that between April 30, 2008, and February 20, 2009, Licensee issued five (5) prescriptions in his name. These prescriptions totaled approximately 95 dosage units of controlled substances, all of which were prescription weight loss medication, to wit: five (5) prescriptions, including refills, for approximately 95 Phentermine HCL 30 mg capsules.

A summary of said prescriptions is as follows:

Fill Date	Substance	Strength	Quantity	R Number
4/30/2008	Phentermine HCL	30 mg	15	278106
7/16/2008	Phentermine HCL	30 mg	15	288392
9/17/2008	Phentermine HCL	30 mg	30	296757
11/12/2008	Phentermine HCL	30 mg	14	304880
2/20/2009	Phentermine HCL	30 mg	21	320106

6. Licensee labeled said prescriptions, "For Office Use", and in doing so violated Drug Enforcement Administration (DEA) regulations regarding the use of personal prescription blanks to create an office stock.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Board renders the following Conclusions of Law regarding each Count alleged in the Summons and Affidavit against Licensee in this matter:

COUNT I: Licensee has violated the terms and provisions of an existing Board Order, Stipulation or Agreement, all in violation of Miss. Code Ann., Section 73-25-29(13).

FINDING: GUILTY

COUNT II: Licensee has violated the terms and provisions of the Board Order dated November 4, 2004, by violating Federal law in using personal prescriptions blanks to create a supply of stock for Licensee's clinic, in direct violation of Title 21, Code of Federal Regulations, §1306.04(b), all in violation of Miss. Code Ann., Section 73-25-29(13).

FINDING: GUILTY

ORDER

NOW THEREFORE, based upon the above Findings of Fact and Conclusions of Law, the Mississippi State Board of Medical Licensure does hereby order as follows:

1. Licensee's request for removal of the current prohibition against prescribing medications for treatment of obesity, weight loss or weight control is denied.

2. All restrictions imposed by virtue of the November 4, 2004, Order of Reinstatement shall continue in full force and effect. A copy of said Order of Reinstatement is attached to this Order as Exhibit "A" and incorporated herein by reference.

3. Although not made a part of the charges now being considered, the Board finds that Licensee has not remained under the care of a Board approved psychiatrist, but believes that continued psychiatric care would be in his best interest. Therefore, Licensee should immediately take steps to place himself under the care of a Board approved psychiatrist, who will be authorized by Licensee to submit quarterly reports to the Board. A revised list of Board approved psychiatrists will be sent to Licensee.

IT IS FURTHER ORDERED that Licensee shall have the right to petition the Mississippi State Board of Medical Licensure for release of any or all the above enumerated conditions after expiration of two (2) years from the effective date of this Order. Thereafter, any right to petition the

Board for reconsideration shall be at reasonable intervals, but no less than twelve (12) months from the date of his last appearance.

IT IS FURTHER ORDERED that pursuant to Miss. Code Ann., Section 73-25-30, Licensee shall pay all costs associated with the investigation and conduct of the proceedings for licensure herein.

SO ORDERED, this the 20th day of January, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
WILLIAM S. MAYO, D.O.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

STEVE MORRIS, III, M.D.

ORDER OF REINSTATEMENT

THIS MATTER came on regularly for consideration on November 4, 2004, before the Mississippi State Board of Medical Licensure, in response to the request of Steve Morris, III, M.D. (hereinafter "Licensee"), seeking reinstatement of his license to practice medicine in the State of Mississippi.

PROCEDURAL HISTORY

By that certain Consent Order, dated October 31, 2002, the Board indefinitely suspended Licensee's certificate to practice medicine in the State of Mississippi, giving Licensee the right to petition for reinstatement after six (6) months from the effective date of that Order. Licensee was directed to take the following actions prior to requesting reinstatement of his license:

1. Undergo a comprehensive psychological and psychiatric evaluation, performed by a Board-approved psychiatrist, and direct the final report of the evaluation be provided to the Board's Executive Director.
2. Submit for the Board's consideration and approval a Practice Plan, which was to include the following specific provisions:

EXHIBIT A

- a. Licensee shall not perform any procedures involving breast augmentation, breast reduction or any surgical procedures inside or outside a hospital. At such time as he may successfully complete a Board approved surgical residency, Licensee may request removal of this restriction.
- b. Licensee shall not prescribe, dispense or administer any controlled substances for treatment of obesity, weight loss or weight control. Licensee may utilize legend drugs for treating patients for obesity, weight loss or weight control only if said drug has an FDA approved indication for such purpose. Licensee will not recommend any over the counter (OTC) or herbal products for weight loss purposes.
- c. Licensee shall abide by and comply with all Federal and State laws and shall abide by and comply with all of the rules and regulations of the Mississippi State Board of Medical Licensure.
- d. Within one (1) year of the effective date of this Consent Order, Licensee shall attend and successfully complete courses in medical record keeping and medical ethics, with said courses approved in advance by the Executive Director of the Board. Following completion of these courses, Licensee shall submit to the Board documentary proof of successful completion.
- e. Licensee's practice of medicine shall be subject to periodic surveillance by the Mississippi State Board of Medical Licensure. The Board's Executive Director, any member of the Board or medical consultant

appointed by the Board, or investigative staff of the Board, shall have the right to inspect and copy records maintained in Licensee's practice location in order to perform patient chart reviews of a representative sample of Licensee's patients.

In its October 31st Order, the Board specifically reserved the right to impose additional conditions on the medical license of Licensee, if reinstated. The Consent Order also specifically required Licensee to pay investigative costs pursuant to Miss. Code Ann. Section 73-25-30.

FACTS

Licensee appeared before the Board at its regularly meeting on November 4, 2004, represented by counsel. Licensee presented proof that John Montgomery, D.O., a Board-approved psychiatrist, had completed the psychological and psychiatric evaluation required by the October 31, 2002, Consent Order. Evidence was presented that in June of 2004, Licensee paid the sum of \$3,000.00 for the costs of investigation and disciplinary proceedings. Licensee presented to the Board a practice plan, evidenced in correspondence dated September 16, 2004, encompassing all the components required by the October 31, 2004, Consent Order. Licensee indicated a desire to return to providing emergency room coverage on an as-needed basis. Licensee's practice plan indicated restriction of his clinical hours, including any emergency room coverage, to no more than sixty (60) hours per week, and that Licensee would not participate in any in-patient care. Licensee presented proof of completion of the required courses in medical record keeping and medical ethics.

ORDER

Based on the foregoing, the Board, having taken this request under consideration, and having reviewed the documentation and evidence produced in support of this request, finds the request for reinstatement to be well-taken.

IT IS THEREFORE ORDERED that Licensee's license to practice medicine in the State of Mississippi be reinstated, subject to the following limitations:

1. Licensee shall not perform any procedures involving breast augmentation or breast reduction. Licensee may perform minor surgical procedures as medically appropriate to a hospital emergency setting. Licensee may request removal of this restriction upon presentation to the Board of evidence of successful completion of a Board-approved surgical residency.
2. Licensee shall not prescribe, dispense or administer any controlled substances for treatment of obesity, weight loss or weight control. Licensee may utilize legend drugs for treating patients for obesity, weight loss or weight control only if said drug has an FDA approved indication for such purpose. Licensee will not recommend any over the counter (OTC) or herbal products for weight loss purposes.
3. Licensee shall abide by and comply with all Federal and State laws and shall abide by and comply with all of the rules and regulations of the Mississippi State Board of Medical Licensure.
4. Licensee's practice of medicine shall be subject to periodic surveillance by the Mississippi State Board of Medical Licensure. The Board's Executive Director, any member of the Board or medical consultant appointed by the Board, or

investigative staff of the Board, shall have the right to inspect and copy records maintained in Licensee's practice location in order to perform patient chart reviews of a representative sample of Licensee's patients.

5. Licensee's clinical practice shall be limited to forty (48) hours per week.
6. For the entire duration of this Order, Licensee shall remain under the care of a Board-approved psychiatrist, who will be authorized by Licensee to submit quarterly reports to the Board. A revised list of Board-approved psychiatrists will be sent to Licensee.
7. Licensee will inform the Board of any and all practice locations.

The Board recognizes that the Licensee has already completed courses in medical record keeping and medical ethics, and requires no further training on Licensee's part in these areas.

IT IS FURTHER ORDERED that Licensee shall have the right to petition the Mississippi State Board of Medical Licensure for release of any or all of the above enumerated conditions after the expiration of two (2) years from the effective date of this Order of Reinstatement. Thereafter, any right to petition the Board for reconsideration shall be at reasonable intervals, but not less than twelve (12) months from the date of last appearance.

SO ORDERED this the 4th day of November, 2004.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**


**DEWITT GREY CRAWFORD, M.D.
PRESIDENT**



1867 Crane Ridge Drive, Suite 200B
Jackson, Mississippi 39216
Telephone 601-987-3079
Fax 601-987-6822

H. Vann Craig, M.D., Executive Director

Psychiatrists Approved By
The Mississippi State Board of Medical Licensure

Douglas William Byrd, M.D.
1855 Lakeland Dr Ste P-231
Jackson, MS 39216
601-366-4696
Fax: 601-366-6574

Sandra Faye Holly, M.D.
407 Marshall Suite 8
P O Box 9483
Jackson, MS 39286
601-353-3342
Fax: 601-939-0647

William Warren Smith, M.D.
S. MS State Hospital
823 Hwy 589
Purvis, MS 39475
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Timothy Richard Kelly, M.D.
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John W. Norton, M.D.
UMC Dept of Psychiatry
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Jackson, MS 39216
601-984-6925

June A Powell, M.D.
P.O. Box 2519
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John William Pruett, M.D.
UMC Dept of Psychiatry
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601-984-5820
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Philip Leslie Scott, D.O.
MS State Hospital
Jackson, MS
Telephone: 601 351-8000
extension: 4090

John Montgomery, D.O.
129 S President Street, #B
Jackson, MS 39201
Telephone: 601-454-7538
Evaluations Only

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 01/24/2011	Name or number of rule(s): 30.11.25.1000 - Regulations Pertaining to Prescribing, Administering and Dispensing of Medications		

Short explanation of rule/amendment/pepeal and reason(s) for proposing rule/amendment/pepeal: _____

This is an amendment to the current regulation and allows electronic prescriptions for controlled substances.

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

List all rules repealed, amended, or suspended by the proposed rule: **30.11.25**

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/pepeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: _____ New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman, Bureau Director
 Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by _____	Accepted for filing by <u>CB17531E</u>	Accepted for filing by _____

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

Chapter 25 Regulations Pertaining to Prescribing, Administering and Dispensing of Medication

Scope

100 These regulations apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 25 only, the following terms have the meanings indicated:
1. “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.
 2. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 3. “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.
 4. “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.
 5. For the purpose of enforcement of the labeling requirements set forth in Section 601 of these regulations, “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.
 6. “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.

Registration for Controlled Substances Certificate

- 300 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.
- 301 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 Section 300 above. 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.

- 302 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 regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.
- 303 The registration requirement set forth in these regulations 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).

Maintenance of Records and Inventories

- 400 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 chapter.
- 401 Controlled substances inventory record. All controlled substances classified under Schedules II, IIN, III, IIN, 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, IIN, 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.
- 402 Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIN, 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, IIN, 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, IIN, IV and V controlled substances. The record shall contain the following information:
1. The date the controlled substance was dispensed or administered.
 2. The name, quantity and strength/dose of the controlled substance dispensed or administered.
 3. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.

4. The name and address of the patient to whom the controlled substance was dispensed or administered.
 5. For all Schedules II and III amphetamines, amphetamine-like anorectic drugs, or sympathomimetic amine drugs dispensed in the treatment of narcolepsy, hyperkinesia, 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.
- 403 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 "C" and "D" to these regulations.
- 404 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 section 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.
- 405 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.*

*** COMMENT: A determination as to whether a "good faith prior examination and medical indication therefore" 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

- 406 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.
- 407 The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these regulations 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.
- 408 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.

Use of Diet Medication

- 500 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

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.

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.

501 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, 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, that all of the following conditions are met:

1. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician determines through review of his or her own records of prior treatment, or thorough review of the records of prior treatment which another treating physician or weight-loss program has provided to the physician, that the patient has made a substantial good-faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, behavior modification, and exercise, without the utilization of controlled substances, and that said treatment has been ineffective.
2. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized. "Recognized contraindication" means any contraindication to the use of a drug which is listed in the United States Food and Drug Administration (hereinafter, "F.D.A.") approved labeling for the drug.
3. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe that a recognized contraindication to its use exists.
4. The physician shall not utilize any Schedules III, IV or V controlled substance in the treatment of a patient whom he or she knows or should know is pregnant.
5. As to those controlled substances in Schedules III, IV or V which are classified as amphetamine or amphetamine-like anorectics and/or central nervous system stimulants, hereinafter referred to as "stimulant", the physician shall not initiate or shall discontinue utilizing said controlled substance stimulant immediately upon ascertaining or having reason to believe:
 - a. That the patient has failed to lose weight while under treatment with said stimulant over a period of thirty (30) days, which determination shall be made by weighing the patient at least every thirtieth (30th) day, except that a patient who has never before received treatment for obesity utilizing a stimulant, and who fails to lose weight during his or her first such treatment attempt may be treated with a different controlled substance for an additional thirty (30) days.
 - b. That the patient has developed tolerance (a decreasing contribution of the drug toward further weight loss) to the anorectic effects of said stimulant being utilized.
 - c. That the patient has a history of or shows a propensity for alcohol or drug abuse.
 - d. That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.

In addition to the above the physician shall not issue a prescription or dispense a stimulant for any greater than a thirty (30) day supply; and a patient's use of stimulants, whether by dispensation or prescription shall be limited to no more than six (6) thirty (30) day supplies during any twelve (12) month period of time. In any case, the total amount of medication shall not exceed a six (6) month supply in the twelve month time period. For the purposes of this paragraph, a twelve (12) month time period is considered to begin on the day of the initial dispensation or prescription issuance.

6. As to all other legend drugs or controlled substances in Schedules III, IV and V which are not considered stimulants but which have received FDA approved indication for long-term use for weight loss, the physician shall administer, dispense or prescribe said medications in strict compliance with the FDA-approved labeling. In addition to the requirements enumerated at 501.5.a-d above, each prescription shall be issued for no more than a total of three months supply (including refills) and further, before subsequent new prescriptions can be issued the patient shall receive a thorough reevaluation of the effectiveness of the medication, including a physical examination to document any potential harmful side effects.

502 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.

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

600 Definitions

For the purpose of Section 600 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 section, "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.

601 Notwithstanding any other provisions of these rules and regulations, 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.

602 Notwithstanding any other provisions of these rules and regulations, 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 patients 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.

603 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.

604 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.

605 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.

Drug Maintenance Requirements

- 700 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 section are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules and Regulations of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.
- 701 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.
- 702 The drug storage and dispensing area shall be maintained in a sanitary fashion.
- 703 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.
- 704 All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

Labeling Requirements for Dispensing Physicians

- 800 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.
- 801 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:
1. The name of the patient to whom the medication was dispensed.
 2. The date that the medication was dispensed.
 3. The name, strength and quantity of the medication.
 4. Direction for taking or administering the medication.
 5. The name and address of the physician dispensing the medication.

The label required by this section 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.

- 802 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.

Prescription Guidelines–Controlled Substances

- 900 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:
1. 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.
 2. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark “none.”
 3. 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.
 4. 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.
 5. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
 6. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photostatically 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:
 - a. 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 section are in addition to, and not in lieu of documentation required in Section 404.

- b. 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 Section 900.6.a above.
- c. 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 Section 900.6.a above.
- d. 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.
7. No more than one (1) controlled substance shall be issued on a single prescription blank.

Prescription Guidelines - All Medications

1000 In addition to any other requirements set forth in these regulations 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:

1. 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.
2. 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 section. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed or electronically transmitted.
3. 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 control substances prescriptions. The Board of Medical Licensure considers Nalbuprine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.
4. 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.

5. If a prescription form which does not contain two signature lines required in Section 1000.3 of this Chapter 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.
6. 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.

7. A prescription shall no longer be valid after the occurrence of any one of the following events:
 - a. Thirty (30) days after the death of the issuing physician.
 - b. 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.
 - c. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
 - d. Immediately after revocation, suspension or surrender of the physician's license.

Freedom of Choice

- 1100 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.
- 1101 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.
- 1102 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.

Other Drugs Having Addiction-forming Liability

- 1200 All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Section 400 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.

Security of Controlled Substances

- 1300 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.

- 1301 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.

Violation of Regulations

- 1400 The prescribing, administering or dispensing of any controlled substance in violation of the above rules and regulations 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).
- 1401 The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules and regulations 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).

Effective Date of Regulations

- 1500 The above rules and regulations 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; and as amended March 13, 2009.

Source: *Miss. Code Ann.* §73-43-11 (Rev. 1972)

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 01/24/2011	Name or number of rule(s): 30.01.25.200 & 30.01.25.1400 - Regulations Pertaining to Prescribing, Administering and Dispensing of Medications		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to the current regulation which defines and establishes regulations to operate pain management clinics.

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

List all rules repealed, amended, or suspended by the proposed rule: **30.01.25**

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: _____ New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: **Rhonda Freeman, Bureau Director**

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by CB17532E	Accepted for filing by

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

Chapter 25 Regulations Pertaining to Prescribing, Administering and Dispensing of Medication

Scope

100 These regulations apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

Definitions

200 For the purpose of Chapter 25 only, the following terms have the meanings indicated:

1. “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.
2. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
3. “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.
4. “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.
5. For the purpose of enforcement of the labeling requirements set forth in Section 601 of these regulations, “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.
6. “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.
7. “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, butabital compounds, or tramadol.

Registration for Controlled Substances Certificate

300 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.

301 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

Section 300 above. 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.

- 302 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 regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.
- 303 The registration requirement set forth in these regulations 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).

Maintenance of Records and Inventories

- 400 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 chapter.
- 401 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.
- 402 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:
1. The date the controlled substance was dispensed or administered.
 2. The name, quantity and strength/dose of the controlled substance dispensed or administered.

3. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.
4. The name and address of the patient to whom the controlled substance was dispensed or administered.
5. 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.

403 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 "C" and "D" to these regulations.

404 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 section 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.

405 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.*

***COMMENT: A determination as to whether a "good faith prior examination and medical indication therefore" 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. Barte**, 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

- 406 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.
- 407 The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these regulations 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.
- 408 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.

controlled substances issued or failure to record patient visit); **Brainard v. State Board of Medical Examiners**, 157 P2d 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.

Use of Diet Medication

- 500 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.
- 501 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, 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, that all of the following conditions are met:
1. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician determines through review of his or her own records of prior treatment, or thorough review of the records of prior treatment which another treating physician or weight-loss program has provided to the physician, that the patient has made a substantial good-faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, behavior modification, and exercise, without the utilization of controlled substances, and that said treatment has been ineffective.
 2. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized. "Recognized contraindication" means any contraindication to the use of a drug which is listed in the United States Food and Drug Administration (hereinafter, "F.D.A.") approved labeling for the drug.
 3. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe that a recognized contraindication to its use exists.
 4. The physician shall not utilize any Schedules III, IV or V controlled substance in the treatment of a patient whom he or she knows or should know is pregnant.
 5. As to those controlled substances in Schedules III, IV or V which are classified as amphetamine or amphetamine-like anorectics and/or central nervous system stimulants, hereinafter referred to as "stimulant", the physician shall not initiate or shall discontinue utilizing said controlled substance stimulant immediately upon ascertaining or having reason to believe:
 - a. That the patient has failed to lose weight while under treatment with said stimulant over a period of thirty (30) days, which determination shall be made by weighing the patient at least every thirtieth (30th) day, except that a patient who has never before received treatment for obesity utilizing a stimulant, and who fails to lose weight during his or her first such treatment attempt may be treated with a different controlled substance for an additional thirty (30) days.
 - b. That the patient has developed tolerance (a decreasing contribution of the drug toward further weight loss) to the anorectic effects of said stimulant being utilized.

c. That the patient has a history of or shows a propensity for alcohol or drug abuse.

d. That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.

In addition to the above the physician shall not issue a prescription or dispense a stimulant for any greater than a thirty (30) day supply; and a patient's use of stimulants, whether by dispensation or prescription shall be limited to no more than six (6) thirty (30) day supplies during any twelve (12) month period of time. In any case, the total amount of medication shall not exceed a six (6) month supply in the twelve month time period. For the purposes of this paragraph, a twelve (12) month time period is considered to begin on the day of the initial dispensation or prescription issuance.

6. As to all other legend drugs or controlled substances in Schedules III, IV and V which are not considered stimulants but which have received FDA approved indication for long-term use for weight loss, the physician shall administer, dispense or prescribe said medications in strict compliance with the FDA-approved labeling. In addition to the requirements enumerated at 501.5.a-d above, each prescription shall be issued for no more than a total of three months supply (including refills) and further, before subsequent new prescriptions can be issued the patient shall receive a thorough reevaluation of the effectiveness of the medication, including a physical examination to document any potential harmful side effects.

502 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.

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

600 Definitions

For the purpose of Section 600 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 section, "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.

601 Notwithstanding any other provisions of these rules and regulations, 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.

602 Notwithstanding any other provisions of these rules and regulations, 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 patients 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.

603 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.

604 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.

605 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.

Drug Maintenance Requirements

- 700 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 section are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules and Regulations of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.
- 701 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.
- 702 The drug storage and dispensing area shall be maintained in a sanitary fashion.
- 703 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.
- 704 All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

Labeling Requirements for Dispensing Physicians

- 800 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.
- 801 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:
1. The name of the patient to whom the medication was dispensed.
 2. The date that the medication was dispensed.
 3. The name, strength and quantity of the medication.
 4. Direction for taking or administering the medication.

5. The name and address of the physician dispensing the medication. The label required by this section 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.

802 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.

Prescription Guidelines--Controlled Substances

900 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:

1. 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.
2. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
3. 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.
4. 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.
5. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
6. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photostatically 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:
 - a. 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 section are in addition to, and not in lieu of documentation required in Section 404.

- b. 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 Section 900.6.a above.
- c. 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 Section 900.6.a above.
- d. 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.
7. No more than one (1) controlled substance shall be issued on a single prescription blank.

Prescription Guidelines - All Medications

1000 In addition to any other requirements set forth in these regulations 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:

1. 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.
2. 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 section. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed or electronically transmitted.
3. 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.

4. If a prescription form which does not contain two signature lines required in Section 1000.3 of this Chapter 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.
5. 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.

6. A prescription shall no longer be valid after the occurrence of any one of the following events:
 - a. Thirty (30) days after the death of the issuing physician.
 - b. 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.
 - c. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
 - d. Immediately after revocation, suspension or surrender of the physician's license.

Freedom of Choice

- 1100 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.

- 1101 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.
- 1102 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.

Other Drugs Having Addiction-forming Liability

- 1200 All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Section 400 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.

Security of Controlled Substances

- 1300 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.
- 1301 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.

Pain Management Clinics

- 1400 The physician owner/operator of the pain management clinic shall register with MSBML. The form to register is attached hereto (Appendix E). 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 clinic. Each clinic requires a separate certificate.
- 1401 A pain management clinic may not operate in the State of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.
- 1402 A pain management clinic may not operate in Mississippi unless the clinic is owned and operated 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.
 3. Holds a certificate of registration for that pain management clinic.
- 1403 In addition , the owner/operator of a pain management clinic, an employee of the clinic or a person with whom a clinic contracts for services may not:
1. Have been denied, by any jurisdiction, a license 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 license 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; or
 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.
- 1404 A pain management clinic may not be owned wholly or partly by any person who has been convicted of, pled nolo contendere to or received deferred adjudication for:
1. an offense that constitutes a felony; or
 2. an offence that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.
- 1405 Certificates are valid for one year and must be renewed annually with the practitioners 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 has expired.

Violation of Regulations

- 14500 The prescribing, administering or dispensing of any controlled substance in violation of the above rules and regulations 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).
- 14501 The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules and regulations 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).

Effective Date of Regulations

- 15600 The above rules and regulations 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; and as amended March 13, 2009.

Source: *Miss. Code Ann.* §73-43-11 (Rev. 1972)



**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
PAIN MANAGEMENT CLINIC REGISTRATION
APPENDIX E**



PAIN MANAGEMENT CLINIC INFORMATION (PLEASE PRINT)

Clinic Name:

Address (No PO Box):

City:

State:

Zip:

Office Phone Number:

Tax ID Number:

Hours of Clinic Operation:

(ex: M-F 8-5, or 40 hrs a week)

Clinic Certification No.:

PRIMARY PHYSICIAN OWNER INFORMATION (PLEASE PRINT)

Last Name:

First Name:

Mid:

Suffix:

Degree:

Phone Number:

Medical License Number:

DEA Controlled Substance Number:

Hours physician owner will be on site at clinic:

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 management clinic.

No

Are all the owners of the pain management clinic physicians?

Yes

If the answer to this question is "no", the clinic is not eligible for certification as a pain management clinic.

No

Have you, any co-owner, current employee or person with whom you contract services ever:

been denied, by any jurisdiction, a license issued by the Drug Enforcement Agency or a state public safety agency under which the person may prescribe, dispense, administer, supply or sell a controlled substance?

Yes

No

held a license issued by the Drug Enforcement Agency or a state public safety agency in any jurisdiction, under which the person may prescribe, dispense, administer, 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

If the answer to any of the above questions is "yes", you are not currently eligible to own and operate a pain management clinic.

Have you, or any co-owner, 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

If the answer to any of the above questions is "yes", you are not currently eligible to own and operate a pain management clinic.

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.

Physician Signature:

Date:

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 01/24/2011	Name or number of rule(s): 30.II.17.100 and 30.II.17.103 - The Practice of Acupuncture		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to a current rule which requires the written referral for the treatment of infertility to come from a physician who practices obstetrics and gynecology. The amendment also requires physicians who wish to practice acupuncture to submit documentation of CME hours and obtain approval from the Board prior to practicing acupuncture in the State.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.17

ORAL PROCEEDING:

An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

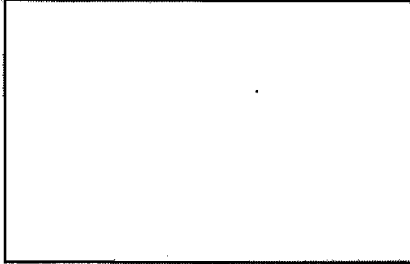
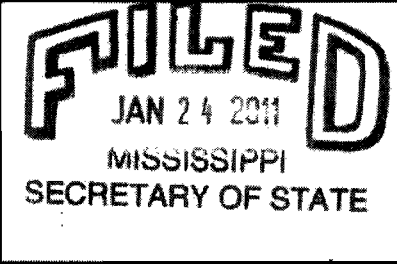
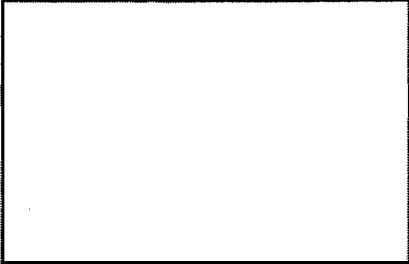
ECONOMIC IMPACT STATEMENT:

Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: _____ New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

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

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by _____	Accepted for filing by <u>CB 17530</u>	Accepted for filing by _____

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

Chapter 17 The Practice of Acupuncture

Scope

- 100 The following regulations 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.
- 101 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.
- 102 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.
- 103 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 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.
- 104 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 (Rev. 2009)

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 01/24/2011	Name or number of rule(s): 30.11.28.100 - Community-Based Immunization Programs		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is a proposed new regulation which will define who can administer vaccinations in Mississippi.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.11.28

ORAL PROCEEDING:

An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: <input checked="" type="checkbox"/> New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman, Bureau Director
 Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP <div style="border: 1px solid black; padding: 10px;"> FILED JAN 24 2011 MISSISSIPPI SECRETARY OF STATE </div> Accepted for filing by <u>CS 17533E</u>	OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Chapter 28 Community-Based Immunization Programs

Scope

- 100 The administration of vaccinations clearly constitutes the practice of medicine, as defined by Mississippi Code Section 73-25-33, 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.

Definitions

- 200 For the purpose of Chapter 28 only, the following term has the meaning indicated:
1. "Part-time" means a minimum of 20 hours per week.

Position

- 300 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:
1. the vaccinations are administered to the public by a licensed nurse and
 2. are carried out pursuant to state and federal public health immunization programs or other programs which:
 - a. shall be approved in advance by the Board;
 - b. 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,
 - c. a single physician assumes responsibility for the safe conduct of the immunization program.

Source: *Miss. Code Ann. §73-43-11 (Rev. 1972)*

MARCH 2011

**MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 23, 2011**

MEMBERS PRESENT:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary

ALSO PRESENT:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, March 23, 2011, at 12:45 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

PRESENTATION FROM DELTA HEALTH ALLIANCE / PROJECT HOPE

Bobby Dale, M.D., with Delta Health Alliance, presented a request in conjunction with Project Hope, along with Neely Carlton, Mississippi State Medical Association. Dr. Dale discussed the domestic outreach program and how it would benefit citizens living in "underserved" areas of Mississippi. Dr. Dale and Ms. Carlton discussed the need for help with some type of temporary license that would allow out-of-state physicians to come to Mississippi and practice for a 2 - 4 week period in the Delta and provide free care to uninsured patients.

Following a brief discussion, the Executive Committee requested that they provide other sites of Project Hope outreach and how other states manage issuing the temporary licenses needed. Dr. Craig advised that at the current time the Board has no statutory authority to grant such a license outside a declared state of emergency. Dr. Craig advised that this is something that may require the legislature to address for the Board to be within legal guidelines.

EXECUTIVE COMMITTEE MINUTES

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**PERSONAL APPEARANCE BY NIDIA C. MESSIAS, M.D., LITTLE ROCK, AR,
APPLICANT**

Dr. Craig advised that Dr. Messias is an applicant that exceeded the seven (7) year rule to complete Steps 1,2 and 3 of the USMLE, and that she has requested to appear before the Executive Committee to discuss her circumstances and request a waiver. Dr. Craig advised that it took Dr. Messias 9 years and 2 months to complete all Steps of the USMLE.

Dr. Messias joined the meeting and was not represented by legal counsel. Dr. Messias had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Messias thanked the Executive Committee for the opportunity to explain her circumstances and answer any questions. Dr. Messias advised that her mother was gravely ill in Brazil and that she had taken time off to care for her and ended up having to remain out of the country due to Visa problems. Dr. Messias advised that she passed Step 3 on her first attempt in December 2006, and currently holds an unrestricted Arkansas medical license.

Dr. Mayo thanked Dr. Messias for appearing and advised her that the Executive Committee would discuss her request and take to the Full Board on Thursday for approval before advising the outcome.

After a brief discussion, the Executive Committee unanimously agreed that extenuating circumstances existed and felt her request for a waiver should be granted.

**PERSONAL APPEARANCE BY MARVIN W. MORGAN, M.D., OCEAN SPRINGS,
MISSISSIPPI MEDICAL LICENSE NUMBER 03222**

Dr. Craig advised that Dr. Morgan is an 86 year old that had previous prescribing issues with the Board in 2003, and was asked by the DEA to surrender his DEA certificate. Dr. Craig advised that Dr. Morgan had entered into a confidential agreement with the Board not to seek renewal of his DEA. Dr. Craig advised that the Board was notified that Dr. Morgan had requested reinstatement of his DEA certificate. Dr. Craig further advised that he wrote Dr. Morgan in October 2010 reminding him of the agreement, but that Dr. Morgan never responded to his request and continued the reinstatement process.

Dr. Morgan joined the meeting and was not represented by legal counsel. Dr. Morgan had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

EXECUTIVE COMMITTEE MINUTES

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The Executive Committee questioned Dr. Morgan concerning the letter that Dr. Craig had sent and to describe the work he is currently performing. Dr. Morgan advised that he didn't think the letter required a reply and stated that he occasionally works in the free clinics on the coast, but advised that he has not done that in the last year. Dr. Morgan stated that he did not remember any past agreement with the Board and advised that he has written a couple prescriptions for family and friends.

Dr. Mayo thanked Dr. Morgan for appearing and advised him that the Executive Committee would discuss the matter and take to the Full Board on Thursday before advising him of their decision.

After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to advise Dr. Morgan to again voluntarily surrender his DEA and provide him a copy of the Board's rules and regulations concerning our special volunteer license.

PERSONAL APPEARANCE BY LUIZ DE LIMA, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 13447

Dr. Craig advised that Dr. De Lima is an anesthesiologist at the University of Mississippi Medical Center and that he does not have a private practice or outside office. Dr. Craig advised that Dr. De Lima came to the attention of the Board by way of a complaint filed by a pharmacist. Dr. Craig advised that the pharmacist advised that Dr. De Lima was writing prescriptions for Adderall to a female patient and then he was personally picking up the prescriptions.

Dr. De Lima joined the meeting and was not represented by legal counsel. Dr. De Lima had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Craig briefly covered the issue with Dr. De Lima and requested that he explain the circumstances. Dr. De Lima advised that the prescriptions were for his finance' and that she was from out of state and did not have a local physician so that is why he had been writing the prescriptions for her Adderall. Dr. De Lima advised that he did not think what he was doing was a problem and that it would not happen again. The Executive Committee asked Dr. De Lima if he kept any patient records on his finance' and he advised that he did not.

Dr. Mayo thanked Dr. De Lima for appearing and advised him that the Executive Committee would discuss the matter and then take to the Full Board on Thursday before advising their decision. Dr. Mayo advised Dr. De Lima that he should hear from the Board within the next week or so.

EXECUTIVE COMMITTEE MINUTES

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After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to issue Dr. De Lima a non-public letter of concern instructing him to attend courses on proper prescribing, record keeping, and professional boundary issues within the next six (6) months with documentation of successful attendance sent to the Board.

PERSONAL APPEARANCE BY JOHN W. WHITE, JR., M.D., TUPELO, MISSISSIPPI MEDICAL LICENSE NUMBER 17285

Dr. Craig advised that Dr. White had been requested to appear to discuss possible concerns with the number of APRNs that he is currently collaborating with and his request to add three (3) additional APRNs in a free standing clinic.

Dr. White joined the meeting and was not represented by legal counsel. Dr. White had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. White addressed the Executive Committee and brought requested information concerning the protocols, documentation of quarterly quality assurance meetings, and information concerning secondary/backup physicians that provide coverage in his absence. Dr. White said that at the current time he only has agreements with nine (9) APRNs, and was requesting to add an additional three (3) at the Baldwin location. After review of the documents that Dr. White handed out to the Executive Committee, there was discussion concerning the protocols and that they were not specific in what the APRNs were allowed to perform. Also, it was noted that Dr. White is associated with a clinic that offers aesthetics and that he only completed a course in February 2011 for training in this area. Dr. White advised that he currently does not offer these procedures in his personal practice.

After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to discuss possible disciplinary action in the matter.

ELLEN O'NEAL EXITED THE MEETING AT 2:45 P.M.

Upon a motion by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously the Executive Committee came out of Executive Session at which time Dr. Mayo requested that Dr. Crawford read their decision.

Dr. Crawford advised that the Executive Committee unanimously agreed that Dr. White should be issued a non-public letter of concern that addresses the APRNs appearing to practice aesthetics when he is not trained, to advise that the quality of care

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must be assured in all collaborative relationships, and due to his failure to comply with rules regarding free standing clinics, that Dr. White must meet with the Board's Executive Director within two (2) weeks to gain approval of the free standing clinic.

DISCUSS EXECNET REPLIES CONCERNING APPLICANTS THAT PROVIDE FALSE AND/OR MISLEADING INFORMATION ON THEIR LICENSURE APPLICATIONS

Dr. Craig covered an Execnet question and the responses received. Dr. Craig advised that the Board is having more and more problems with physicians falsifying and/or providing misleading information on applications and renewals. Dr. Craig advised that at the present time the Board cannot fine physicians but that he needed direction in handling the matter since it seems to be appearing more often.

After a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously to invite significant matters to the Executive Committee for handling, and that the other offenses should be sent Letters of Concern that would become a part of their permanent licensure files. It was further noted that the Board does have the right to request proof of an expungement.

PERSONAL APPEARANCE BY FRANK E. EVANS, D.P.M., GULFPORT, MISSISSIPPI MEDICAL LICENSE NUMBER 80028

Dr. Craig discussed the reasons why Dr. Evans had been invited to appear before the Executive Committee. Dr. Craig advised that Dr. Evans is a podiatrist on the Gulf Coast. Dr. Craig advised that the Board has issues with patient privacy in Dr. Evans' clinic; that he uses M.D. in advertising when he failed to complete his post graduate training as required; that he was found to be delinquent in his Continuing Medical Education hours; and that records examined by investigators showed poor documentation and inadequate indications for prescribing controlled substances.

Dr. Evans joined the meeting and was not represented by legal counsel. Dr. Evans had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Evans addressed the Executive Committee and answered several questions concerning his education and current practice. Dr. Mayo thanked Dr. Evans for appearing and told him that the Executive Committee would discuss the matter and take it to the Full Board on Thursday before advising him of their decision.

After further discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to send Dr. Evans a non-public Letter of Concern advising him to 1) partition or curtain the glass window to meet HIPPA regulations; 2) to

EXECUTIVE COMMITTEE MINUTES

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properly document writing of controlled drugs; 3) to complete 80 hours of CME (40 hours are to makeup the past CME cycle); 4) to attend courses on proper prescribing and record keeping and to send documentation of satisfactory completion; and, (5) to remove M.D. from all advertising in an effort to not deceive the public of his credentials.

PERSONAL APPEARANCE BY KENDRIX J. EVANS, M.D., GULFPORT, APPLICANT

Dr. Craig advised that Dr. Evans is an applicant that was invited to appear before the Executive Committee to discuss his failure to disclose a DUI arrest in Georgia in 2007, on his licensure application.

Dr. Evans joined the meeting and was not represented by legal counsel. Dr. Evans had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Evans addressed the Executive Committee and stated that he misread the question and that he was not attempting to mislead the Board. Dr. Evans answered several questions from the Executive Committee members concerning the DUI arrest.

Dr. Mayo thanked Dr. Evans for appearing and advised that the Executive Committee would discuss the matter and take to the Full Board on Thursday. Dr. Mayo advised Dr. Evans that he would receive a letter in a week or so providing the Board's decision.

After further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to send Dr. Evans a non-public Letter of Concern to be placed in his licensure file that advises that the Board takes seriously any failure to fully disclose information on licensure applications. Dr. Evans is to be further advised to disclose this information on other applications and on licensure renewals.

DISCUSS ROBIT AGRAWAL, M.D., PITTSBURG, PA, APPLICANT

Dr. Craig briefly discussed an application received from Dr. Agrawal and the fact that two (2) malpractice cases were left off his application. Dr. Craig advised that even though the cases were dismissed, Dr. Agrawal had been sued.

After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to send Dr. Agrawal a non-public Letter of Concern to be placed in his licensure file covering the error, as well as requesting a corrected application.

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JONATHAN INGRAM, M.D., LAFAYETTE, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 16549, DISCUSS LICENSURE APPLICATION INFORMATION

Dr. Craig briefly covered that the Board had sent Dr. Ingram a letter after receiving information from the Florida Medical Board that they had denied him a license based on information that he failed to disclose that he had been on probation during medical school. Dr. Craig advised that review of his initial application and subsequent renewals in Mississippi failed to reveal this information being reported to our Board.

After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that Dr. Craig attempt to contact Dr. Ingram by phone and request a response concerning the matter be sent to the Board.

MALCOLM L. LATOUR, SR., M.D., OCEAN SPRINGS, MISSISSIPPI MEDICAL LICENSE NUMBER 07901, AGREEMENT TO RETIRE MEDICAL LICENSE

For informational purposes, Dr. Craig advised that the Board had received a Voluntary Surrender of Dr. Latour's medical license.

JOE C. SCOGGIN, SR., M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 04242, AGREEMENT TO RETIRE MEDICAL LICENSE

For informational purposes, Dr. Craig advised that the Board had received a Voluntary Surrender of Dr. Scoggin's medical license.

JOSEPH S. MARDIS, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 15863, ORDER OF PROHIBITION

For informational purposes, Dr. Craig provided an update on Dr. Mardis and stated that the Board had issued an Order of Prohibition when an investigation proved that he was in violation of his current Order.

JOHN E. WITCHER, M.D., UNION, MISSISSIPPI MEDICAL LICENSE NUMBER 14977, AFFIDAVIT

For informational purposes, Dr. Craig advised that the Board has been unable to locate Dr. Witcher. Dr. Craig stated that the Board had received a report from the National Practitioner Data Bank providing information that Dr. Witcher's clinical privileges were summarily suspended indefinitely due to a positive urine drug screen for cannabinoids and that the hospital stated that he was unable to practice safely.

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Dr. Craig discussed the problems that the Board was having in locating Dr. Witcher to serve him. Upon advise from counsel, Stan Ingram, the Board can send an emergency suspension of his license to his last known address and schedule a hearing in the matter. After discussing, the Executive Committee set the scheduled hearing for Friday, April 8, 2011, at 5:00 p.m. The Executive Committee decided to request an agreement from the Full Board that the matter will be heard by the Executive Committee members or a hearing panel of the Board.

UPDATE ON DAVID BERRY, M.D., FLOWOOD, MISSISSIPPI MEDICAL LICENSE NUMBER 21038

For informational purposes, Dr. Craig stated that he had a conversation with Dr. Berry and suggested that he try to reduce his Suboxone to one (1) a day. Also, Dr. Craig advised that Dr. Berry has signed the PHP contract and that he had received a letter from Dr. Guy Farmer who has agreed to monitor Dr. Berry in the emergency room and to send quarterly reports to the Board.

UPDATE ON JAMES C. MANUELE, JR., M.D, GRENADA, MISSISSIPPI MEDICAL LICENSE NUMBER 19466

For informational purposes, Dr. Craig provided an update on Dr. Manuele and covered a letter that he had sent him regarding who the Board recommends to manage his ADHD and prescriptions. Dr. Hambleton, Medical Director, Mississippi Professionals Health Program (MPHP) advised that to date Dr. Manuele has not signed the contract sent to him and that he has been given until April 4th to sign.

After further discussion, the Executive Committee agreed that if Dr. Manuele does not sign and return the contract by April 4th that he be requested to appear in a hearing before the Full Board at the May meeting.

REQUEST FROM SETH M. GOLDBERG, M.D., CHANTILLY, VA, APPLICANT

Dr. Craig discussed Dr. Goldberg's application and Dr. Goldberg's request. Dr. Craig advised that Dr. Goldberg has not been in active practice for the past ten (10) years. Dr. Craig advised that Dr. Goldberg has a contract to perform utilization management reviews in Mississippi and that the Board had offered him a license if he would sign a reportable Consent Order limiting his practice to administrative medicine. Dr. Craig advised that Dr. Goldberg does not want to sign the Consent Order due to the fact that he has unrestricted licenses in four (4) other states and fears that the Consent Order may affect those licenses.

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After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to let the Consent Order offer stand or advise Dr. Goldberg that he will have to establish clinical competency with The Center for Personalized Education for Physicians (CPEP) in order to be granted an unrestricted license.

DISCUSS ALEX GREEN, M.D., WEST BLOOMFIELD, MI, APPLICANT

Dr. Craig discussed the application for Dr. Green and advised that he had completed medical school in two and a half years in a Caribbean school. The Executive Committee discussed the lengths of each semester versus schools like the University of Mississippi Medical School (UMC). Dr. Easterling suggested that the Board contact Dr. Helen Turner at UMC for direction in the matter.

After further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to grant Dr. Green a license due to the fact that other states have accepted his medical training and granted a license.

REQUEST FROM LORA MCGILL, M.D., MID-SOUTH ANESTHESIA CONSULTANTS AND BOARD'S RESPONSE

For informational purposes, Dr. Craig briefly discussed a request and response to Dr. McGill. Dr. Craig advised that he had discussed the matter with the Board's legal counsel as well as had learned that the DEA does not have a problem with controlled substances being returned to the manufacturer or supplier via the DEA 222 Order forms.

JONATHAN HOWARD STEIN, M.D., BROUSSARD, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 14340, REINSTATEMENT / APPROVE CONSENT ORDER

Dr. Craig briefly covered a reportable Consent Order that had been signed and returned by Dr. Stein as a condition for reinstating his Mississippi license. Dr. Craig advised that the action taken mirrors action taken on Dr. Stein's license by the Louisiana Medical Board.

Motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to accept the Consent Order.

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

EXECUTIVE COMMITTEE MINUTES

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DANIEL B. FORE, M.D., SOUTHAVEN, MISSISSIPPI MEDICAL LICENSE NUMBER 19431, DISCUSS COMPLAINT AND ELECTRONIC SIGNATURE

Dr. Craig briefly discussed a complaint received on Dr. Fore and requested guidance from the Executive Committee on date information related to electronic signatures. After discussion, it appears that all the information was correctly handled.

DEANNA MARIE KIRKPATRICK STEWART, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 13536, DISCUSS COMPLAINT RECEIVED

Dr. Craig briefly discussed a complaint received on Dr. Stewart. After a brief discussion, the unanimous decision of the Executive Committee was to have Dr. Miles, an OB/GYN on the Board, review the information and advise if he felt there was any problems with the standard of care performed by Dr. Stewart.

OTHER BUSINESS


Dr. Craig covered an email that had been received from Dr. Bolton advising that she has nine (9) APRNs and is requesting to add two (2) more by April 1, 2011, and is requesting Board approval. After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to advise Dr. Bolton to schedule an appointment with Dr. Craig and bring all the protocols to discuss the matter.

AGENDA FOR BOARD MEETING

Dr. Craig briefly reviewed the agenda for tomorrow's meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:50 p.m.


WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
March 23, 2011

**EXECUTIVE SESSION
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 23, 2011**

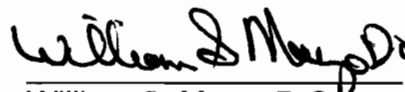
AGENDA ITEM: Personal appearance by John W. White, Jr.

In an unanimous decision, the Executive Committee voted to send Dr. White a Letter of Concern listing the following areas of concern:

- 1) APRN's appearing to practice aesthetics when he was not yet trained.
- 2) Quality of care must be assured in all collaborative relationships.
- 3) Due to failure to comply with rules regarding free standing clinics, Dr. White must meet with the Executive Director within 2 weeks to gain approval of free standing clinic.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
S. Randall Easterling, M.D.	x			
William S. Mayo, D.O.	x			
Virginia Crawford, M.D.	x			

With a motion by Dr. Crawford, seconded by Dr. Easterling, the Executive Committee came out of Executive Session.



William S. Mayo, D.O.
President

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, Nidia C. Messias, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 23rd day of March, 2011.

Witness: Sherry Lewis

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, Marvin W. Morgan, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

- 1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
- 2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
- 3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
- 4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 23 day of March, 2011.

Marvin W. Morgan, M.D.

Witness Sherry Davis

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, Luiz De Lima, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

- 1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
- 2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
- 3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
- 4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

___ with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 3rd day of March, 2011.



Witness Sherry Harris

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE


I, John W. White, Jr., M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

- 1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
- 2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
- 3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
- 4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 23 day of March, 2011.



Witness: Sherry Harris

80028
6/30/11

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, Frank E. Evans, D.P.M., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 23 day of 3, 2011.

Frank E. Evans

Witness:

Sherry Thrus

21459
6/30/11

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE

I, Kendrix J. Evans, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss possible resolution of a pending disciplinary matter/investigation or to respond to a complaint duly received by the Board. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the allegations during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal disciplinary hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

___ with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 23rd day of March, 2011.

Kendrix J. Evans

Witness: *Sherry Lewis*

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JONATHAN HOWARD STEIN, M.D.

CONSENT ORDER

WHEREAS, there is now pending before the Mississippi State Board of Medical Licensure (hereinafter referred to as MSBML), the application of Jonathan Howard Stein, M.D., Broussard, Louisiana, (hereinafter referred to as Applicant), for reinstatement of his license to practice medicine in the state of Mississippi; and

WHEREAS, on or about January 16th, 2009, Applicant executed a Consent Order with the Louisiana State Board of Medical Examiners which conditioned his Certificate of Qualification and License to practice medicine in the state of Louisiana based on the results of an evaluation which indicate that Applicant may be suffering from a medical condition that could potentially impact his ability to practice medicine; and

WHEREAS, pursuant to Subsection (9) §73-25-29 Miss. Code Ann. (1972), the aforementioned disciplinary action in the state of Louisiana, constitutes unprofessional conduct for which the Board may deny Applicant's application for a Mississippi medical license, or take any other action in relation to his application as the Board may deem proper under the circumstances; and

WHEREAS, it is the desire of Applicant to avoid a hearing before the Mississippi State Board of Medical Licensure, and in lieu thereof requests that the Board take action as specified below;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Applicant as signified by his joinder herein, does hereby grant unto Applicant a license to

practice medicine in the state of Mississippi, subject to the following probationary terms and conditions, to-wit:

1. Applicant shall not perform any invasive cardiology procedures, including diagnostic angiography, interventional vascular and interventional cardiology procedures, including the insertion of cardiac pacemakers or implantable cardiac defibrillators. This condition shall remain in force and effect for such period of time as Applicant maintains a license to practice medicine in this state or until and unless this Order is modified by subsequent written order of the Board based upon whatever terms and conditions that it may, in its sole discretion, deem appropriate.
2. Applicant shall strictly comply with all of the terms and conditions of probation on his license to practice medicine in the state of Louisiana and the state of Mississippi. In the event Applicant fails to comply with any conditions imposed on him by the state of Louisiana or the state of Mississippi, the stay of suspension of his license shall be immediately removed and Applicant shall be prohibited from practicing medicine until such time as a determination is made by the Mississippi State Board of Medical Licensure that Applicant is again ready to return to the practice of medicine. Summary suspension pursuant to this paragraph shall be for an indefinite period of time, notwithstanding any term or right to petition for reinstatement provided herein.
3. Applicant shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.
4. Applicant shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.

5. Applicant shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss. Code Ann. §73-25-30. Applicant shall be advised of the total assessment by separate written notification and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure, on or before forty (40) days from the date Applicant receives the aforementioned notification.

Applicant shall have the right, but not the obligation, to petition the Board for removal of any or all of the restrictions imposed herein at such time as he has successfully completed all terms and conditions as required by the Louisiana Board of Medical Examiners and is released therefrom by order of the Louisiana Board. At such time as Applicant petitions this Board for removal of any or all of the restrictions imposed herein, the Board reserves the right, in its sole and absolute discretion, to utilize any information or reports from either the Louisiana Board of Medical Examiners or any other source, to impose any other restrictions it deems necessary to protect the public.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Applicant authorizes the Board to review and examine any documentary evidence or material concerning the Applicant prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

Applicant understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the state of Mississippi.


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

Executed, this the 11, day of March, 2011.



JONATHAN HOWARD STEIN, M.D.

ACCEPTED AND APPROVED, this the 24th, day of March, 2011,
by the Mississippi State Board of Medical Licensure.



William S. Mayo, D.O.
President

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, March 24, 2011, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary
Larry B. Aycock, M.D., McComb
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
Philip T. Merideth, M.D., J.D., Jackson
Charles D. Miles, M.D., West Point

Also present:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Frances Scott, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee
Charles Thomas, Yazoo City, Consumer Health Committee

Not present:

Cecil R. Burnham, Jackson, Consumer Health Committee

The meeting was called to order at 9:00 a.m. by Dr. Mayo, President. The invocation was given by Dr. Easterling and the pledge was led by Dr. Chance. Dr. Mayo welcomed the Court Reporter, Ella Hardwick, and extended a welcome to all visitors present at today's meeting.

Dr. Craig recognized Benita Benson for ten (10) years of service with the agency and presented her with a certificate and a crystal biscuit jar that was embossed with the Board's seal.

BOARD MINUTES
MARCH 24, 2011
Page 2

Dr. Craig also advised that the agency has an employee who will be retiring effective June 30, 2011. Dr. Craig read the Resolution and recognized Regina T. Lyle for fifteen and a half years of service to the Board in both Licensure and Administration. Ms. Lyle was presented the Resolution along with a plaque of the State of Mississippi. A copy of the Resolution is attached hereto and incorporated by reference.

PUBLIC COMMENTS

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

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD JANUARY 01, 2011, THROUGH FEBRUARY 28, 2011

One hundred ninety-two (192) licenses were certified to other entities for the period January 01, 2011, through February 28, 2011. Motion was made by Dr. Merideth, seconded by Dr. Easterling, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD JANUARY 01, 2011, THROUGH FEBRUARY 28, 2011

Fifty-six (56) licenses were issued for the period January 01, 2011, through February 28, 2011. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

DR. AYCOCK ARRIVED AT 9:15 A.M.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED JANUARY 19, 2011, AND MINUTES OF THE BOARD MEETING DATED JANUARY 20, 2011

Minutes of the Executive Committee Meeting dated January 19, 2011, and Minutes of the Board Meeting dated January 20, 2011, were reviewed. Dr. Merideth moved for approval of the minutes as submitted. Dr. Chance seconded the motion, and it carried unanimously.

REPORT OF MARCH 23, 2011, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered the appearances and issues that were discussed/approved by the Executive Committee on March 23, 2011. Information pertaining to the Executive Committee decisions is included in the Executive Committee Minutes dated March 23, 2011.

BOARD MINUTES
MARCH 24, 2011
Page 3

Dr. Mayo stated that the Executive Committee moves that their actions/decisions be approved. The Board unanimously approved to ratify the actions taken by the Executive Committee.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Crawford (Chair), Dr. Easterling, Dr. Aycock, Dr. Miles, Dr. Brunson, Mr. Burnham, Mr. Thomas

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

Professionals Health Program - Dr. Mayo (Chair), Dr. Merideth, Dr. Chance

Dr. Mayo advised that the Committee is currently working on the Memorandum of Understanding.

Rules, Regulation & Legislative - Dr. Easterling (Chair), Dr. Jones, Dr. Mayo, Dr. Chance, Mr. Breland

Dr. Easterling advised that the Committee met this morning. Dr. Easterling handed out a copy of proposed changes to the Board's regulation of Chapter 9 and explained the reasons for the requested changes. After a brief discussion, additional editorial changes will be made and the matter will be taken up later in the meeting.

Ethics - Dr. Merideth (Chair), Dr. Crawford, Dr. Jones

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

Telemedicine / EHR - Dr. Aycock (Chair), Dr. Miles, Dr. Brunson

Dr. Aycock briefly discussed bills that were introduced pertaining to electronic prescribing but have ultimately died this legislative session.

**HEARING IN THE CASE OF STEVEN W. EASLEY, M.D., MADISON, MISSISSIPPI
MEDICAL LICENSE NUMBER 15463**

Dr. Easley was present but was not represented by legal counsel. Scott Hambleton, M.D., representing Mississippi Professionals Health Program (MPHP) was here to advocate for Dr. Easley.

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Easley and Dr. Hambleton. Ms. O'Neal, Assistant Attorney General, questioned Dr. Easley regarding I

BOARD MINUTES
MARCH 24, 2011
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legal representation and Dr. Easley stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram addressed the Board and provided a background of why Dr. Easley was here today before entering several exhibits into the record.

Dr. Easley was called to the witness stand and was sworn in by the court reporter. Dr. Easley addressed the Board and advised them what he has been doing since his suspension and that he was here today petitioning that all the current restrictions be lifted.

Dr. Hambleton addressed the Board and advised that Dr. Easley had completed the requirements of his Recovery Contract Agreement and that MPHP supports Dr. Easley's request for an unrestricted license.

Upon a motion by Dr. Aycock, seconded by Dr. Jones, and carried unanimously, the Board went into Executive Session to discuss Dr. Easley's request which could be appealable.

Upon a motion by Dr. Aycock, seconded by Dr. Jones, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board had unanimously voted to grant Dr. Easley's request for the removal of all restrictions on his license to practice medicine with the understanding that he is to be monitored by the MPHP for a minimum of five (5) years. A copy of the Board's Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

**PERSONAL APPEARANCE BY H. LEE RICHARDSON, JR., M.D., REFORM, AL,
MISSISSIPPI MEDICAL LICENSE NUMBER 10330, DISCUSS CONSENT ORDER**

Mr. Ingram addressed the Board and introduced Dr. Richardson. Mr. Ingram advised that Dr. Richardson has executed a Consent Order that was sent to him by the Board, but had included a letter requesting the opportunity to discuss possible modifications to the Consent Order. Mr. Ingram provided the Board with a brief background and covered Alabama's Consent Order.

Dr. Richardson addressed the Board to make his request for the modifications. Dr. Richardson advised that his Alabama Order has no restrictions on Class IV or V and that he wants the opportunity to petition the Board for removal of any and all restrictions

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Page 5

imposed at such time as his Alabama license and DEA is fully restored and he has met all other requirements of the Order. Dr. Richardson advised that the time frame on his Alabama Order would be complete after August 27, 2011, and that he was requesting Mississippi to allow him to petition for release at the same time instead of the twelve (12) months spelled out in the order.

Following questions from Board members, motion was made by Dr. Aycock, seconded by Dr. Miles, and carried unanimously that the Board enter into Executive Session to discuss Dr. Richardson's request which could be appealable.

Upon a motion by Dr. Brunson, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board voted unanimously to grant Dr. Richardson's request to mirror Alabama's Consent Order as to restrictions on prescribing authority so that he is restricted from II, IIN, III and IIIN only. Also the Board voted to grant Dr. Richardson's request for the opportunity to petition the Board for removal of any and all restrictions when his Alabama license and DEA are fully restored. A copy of the Consent Order with the requested changes is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

**HEARING IN THE CASE OF JOHN LEONARD HERZOG, M.D., GREENVILLE,
MISSISSIPPI MEDICAL LICENSE NUMBER 09800**

Mr. Ingram introduced Dr. Herzog and his attorneys, Allison Simpson and Tom Kirkland. Mr. Ingram briefly summarized Dr. Herzog's history, made his opening comments and entered several exhibits into the record. Also, Mr. Kirkland entered several exhibits into the record as well as providing copies to each Board member.

Mr. Ingram briefly covered the Affidavit and the four (4) counts of violation of the Medical Practice Act. Also, Mr. Ingram covered the board order from Arkansas and the Forbearance Agreement that Dr. Herzog had previously signed with the Board.

Mr. Kirkland addressed the Board and covered the Forbearance Agreement before calling Dr. Herzog to the witness stand. Dr. Herzog was sworn in by the court reporter prior to answering questions from Mr. Kirkland concerning his practice, the Forbearance Agreement, and discussing the counts listed in the Affidavit.

THE BOARD RECESSED AT 12:00 NOON FOR AN HOUR LUNCH

THE BOARD RECONVENED AT 1:00 P.M. WHEN DR. MAYO CALLED THE MEETING BACK IN SESSION

Dr. Herzog was questioned by Mr. Ingram and answered several questions from Board members before closing remarks were made by Mr. Ingram and Mr. Kirkland. Mr. Ingram also followed up with a rebuttal.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to discuss Dr. Herzog's matter which could be appealable.

Upon a motion by Dr. Jones, seconded by Dr. Miles, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board finds Dr. Herzog guilty of **Count I** for unprofessional conduct by virtue of his violation of the 2004 Forbearance Agreement by failure to notify the Board of two (2) malpractice lawsuits and a restriction of his hospital privileges by the medical committee of DRMC. Dr. Crawford advised that the Board finds Dr. Herzog guilty of **Count II** for violation of the forbearance agreement for failure to furnish information legally requested by the Board by virtue of his failure to notify the Board of two (2) malpractice lawsuits and a restriction of his hospital privileges by the executive committee of DRMC. Dr. Crawford advised that the Board finds Dr. Herzog guilty of **Count III** for failure to abide by provisions of 2004 Forbearance Agreement by virtue of his failure to notify the Board of two (2) malpractice cases and investigation and restriction of privileges by the medical executive committee of DRMC. Dr. Crawford advised that the Board finds Dr. Herzog guilty of **Count IV**, of false or fraudulent statement in connection with his Mississippi licensure documents by virtue of submitting false information on renewal application dated May 5, 2003, and failing to acknowledge on his renewal application pending charges against his Arkansas license. Dr. Crawford advised that Dr. Herzog is immediately prohibited from performing any invasive cardiac procedures until such time as he: 1) successfully completes a clinical competency assessment in invasive cardiology procedures approved by the Executive Committee of the Board or the Board's Executive Director. 2) Dr. Herzog shall complete the ECG interpretation course and then take and pass the ACC/AHA EKG Clinical Competency exam, and 3) Dr. Herzog must address the CPEP educational needs found on pages 7,8,9, and 10 of the CPEP report dated July 9, 2010. Further, the Board finds there are significant concerns about Dr. Herzog's clinical competency in cardiology as reflected in the CPEP report provided July 9, 2010, and by his practice history. Upon completion of the above requirements, Dr. Herzog may petition the Board for reinstatement of his interventional cardiology privileges.

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

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

MR. BRELAND EXITED THE MEETING AT 3:05 P.M.

**HEARING IN THE CASE OF JAY PAUL JACOBS, II, M.D., WELLINGTON, FL.,
MISSISSIPPI MEDICAL LICENSE NUMBER 16142**

Mr. Ingram requested that Francis Carrillo check to see if Dr. Jacobs was in the building. Ms. Carrillo advised that he had not signed in and that she could not locate him.

Mr. Ingram advised that the Board had tried to serve Dr. Jacobs with a Summons and Affidavit but have been unable to locate him. Mr. Ingram advised that the Board has two (2) means by which to contact a physician; 1) personal service, and 2) registered mail. Mr. Ingram advised that the registered mail was signed by a person believed to be his mother so we are unable to prove that Dr. Jacobs was in fact notified of the hearing. Mr. Ingram requested that the Board continue the matter until the May 2011 meeting.

Motion was made by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously to grant the Continuance until the May 12, 2011 meeting. A copy of the Order of Continuance is attached hereto and incorporated by reference.

**PERSONAL APPEARANCE BY JAMES L. CRABB, M.D., JACKSON, TN,
MISSISSIPPI MEDICAL LICENSE NUMBER 06812, REQUEST APPROVAL OF
CONSENT ORDER**

Mr. Ingram advised that Dr. Crabb had been requested to appear to discuss his Consent Order that he had signed that mirrors action taken by the Tennessee Board of Medical Examiners. Mr. Ingram summarized the Consent Order and advised that Dr. Crabb had signed the Order and left the premises.

Motion was made to accept the Consent Order by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously. A copy of the Consent Order is attached hereto and incorporated by reference.

DAVID C. SCHAFF, M.D., OXFORD, MISSISSIPPI MEDICAL LICENSE NUMBER 08421, SURRENDER OF MEDICAL LICENSE

Dr. Craig briefly covered the Voluntary Surrender signed by Dr. Schaff during the Board's investigation. After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Jones, and carried unanimously to accept Dr. Schaff's Voluntary Surrender. A copy of the Surrender of Medical License is attached hereto and incorporated by reference.

FINAL ADOPTION OF AMENDMENT TO REGULATION CONCERNING THE PRACTICE OF ACUPUNCTURE (CHAPTER 17) / COMMENT RECEIVED

Dr. Craig briefly discussed the changes to the regulation and covered the comment letter that the Board had received from the Mississippi Oriental Medicine Association. Dr. Jones suggested that under Scope 103, line 3 to add AOA in the area concerning the CME hours. The sentence should read, "Adequately trained will be defined as a minimum of 200 hours of AMA or AOA approved Category I CME in the field of acupuncture."

Following a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Jones and carried unanimously of the Board's intent to final adopt the amendment to the regulation concerning the practice of acupuncture with the change adding AOA. A copy of the amended regulation with changes is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

FINAL ADOPTION OF AMENDMENT TO REGULATION PERTAINING TO PRESCRIBING, ADMINISTERING AND DISPENSING OF MEDICATION (CHAPTER 25)

Dr. Craig briefly discussed the changes and covered the area of pain management clinics. After a brief discussion and several editorial requests, motion was made by Dr. Crawford, seconded by Dr. Brunson, and carried unanimously of the Board's intent to final adopt the amendment to the regulation pertaining to prescribing, administering and dispensing of medication with the changes under Scope 1402 concerning pain management clinics. A copy of the amended regulation with changes is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

BOARD MINUTES

MARCH 24, 2011

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FINAL ADOPTION OF REGULATION PERTAINING TO COMMUNITY-BASED IMMUNIZATION PROGRAMS (CHAPTER 28) / COMMENT RECEIVED

Dr. Craig briefly discussed the regulation pertaining to community-based immunization programs and the comment letter that was received from Ms. Genie Stark Thomas with Balch & Bingham on behalf of their client, Maxim Healthcare Services, Inc.

Following a brief discussion, motion was made by Dr. Merideth, seconded by Dr. Easterling, and carried unanimously of the Board's intent to final adopt the regulation concerning community-based immunization programs. A copy of the regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

LETTER RECEIVED FROM THE AMERICAN SOCIETY OF BARIATRIC PHYSICIANS CONCERNING THE BOARD'S RULES AND REGULATIONS (CHAPTER 25) USE OF DIET MEDICATION

Dr. Craig briefly discussed a letter that the Board had received requesting changes to the Board's Rules and Regulations pertaining to the use of diet medication. After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously to refer the matter to the Rules, Regulation and Legislative Committee for additional review into guidelines.

LETTER FROM THE MS BOARD OF NURSING CONCERNING THEIR PROPOSED REVISIONS

After a brief discussion and several comments received from members of the Board of Nursing and the Mississippi Nurses Association, Dr. Easterling discussed the changes that the Board had made to Chapter 09 of the Board's Rules and Regulations concerning Collaboration/Consultation with Nurse Practitioners. Dr. Easterling advised that the matter was discussed earlier and handed out the latest revisions to Chapter 09. Dr. Easterling advised that the changes would be filed today as proposed and would come back before the Board at the May meeting for final adoption, which would allow time for the comment period.

Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously of the Board's intent to adopt the proposed amendment regulation concerning Collaboration/Consultation with Nurse Practitioners. A copy of the proposed amended regulation is attached hereto and incorporated by reference. The proposed amended regulation will be filed with the Secretary of State under the Administrative Procedures Act.

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MARCH 24, 2011
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Following a brief discussion after the vote, the Board of Nursing requested additional changes which did not pass in a vote before the Board. Following further discussion, Dr. Crawford again made the motion to post the proposed regulation as had been approved with opportunity for additional comments before final adoption in May. The motion was seconded by Dr. Brunson, and carried unanimously.

ANNUAL UPDATE FROM LIFE LINE SCREENING

For informational purposes only, Dr. Craig briefly discussed the annual update that had been received from Life Line Screening.

OTHER BUSINESS

Dr. Mayo briefly discussed the special Executive Committee hearing for Dr. Witcher that has been set for Friday, April 8, 2011, at 5:00 p.m. Dr. Mayo requested approval from the Board for the matter to be heard by members of the Executive Committee as a hearing panel, with Dr. Brunson and Dr. Merideth as alternates for any Executive Committee member that might be unable to attend. It was the unanimous decision of the Board that the request be granted.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:35 p.m., with the next scheduled meeting for Thursday, May 12, 2011.



WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
March 24, 2011

RESOLUTION

WHEREAS, Regina T. Lyle, Lena, Mississippi, faithfully and conscientiously served the Mississippi State Board of Medical Licensure in the Licensure and Administrative Division for fifteen and a half years; and

WHEREAS, Mrs. Lyle faithfully and diligently served this Board to the great benefit of the Board and citizens of the State of Mississippi; and

WHEREAS, during her years of service Mrs. Lyle continually and graciously gave her efforts, time and abilities toward maintaining firmness, fairness and dignity in the licensure and accounting process and in training of personnel who work under her guidance; and

WHEREAS, through these efforts Mrs. Lyle has contributed to maintaining the highest standard of medical practice in the State of Mississippi; and

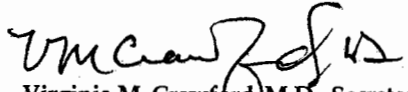
THEREFORE, BE IT RESOLVED, that the Mississippi State Board of Medical Licensure, on behalf of the Board and the people of the State of Mississippi, by means of this resolution, express to Mrs. Lyle its gratitude and appreciation for her services during the years she devoted to the Board and the State of Mississippi; and

BE IT FURTHER RESOLVED, that a copy of this resolution be spread upon the minutes of the Board and a copy be given to Mrs. Lyle expressing to her the highest esteem of the Board.

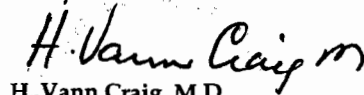
DATED, this the twenty-fourth day of March, 2011.


William S. Mayo, D.O., President

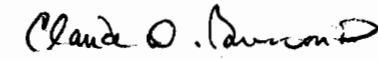

S. Randall Easterling, M.D., Vice President


Virginia M. Crawford, M.D., Secretary

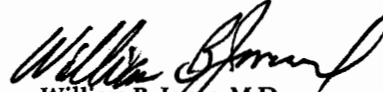
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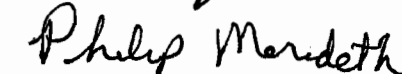

H. Vann Craig, M.D.
Executive Director



Larry B. Aycock, M.D.


Claude D. Brunson, M.D.


Rickey L. Chance, D.O.


William B. Jones, M.D.


Philip T. Merideth, M.D., J.D.


Charles D. Miles, M.D.

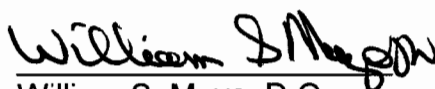
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: X. Hearing in the case of Steven W. Easley, M.D.

In a motion made by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously the Board votes to reinstate an unrestricted license to Dr. Easley with the understanding that he remain in contract with MPHP for a minimum of 5 years.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Aycock, seconded by Dr. Jones, the Board came out of Executive Session.


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

STEVEN WAYNE EASLEY, M.D.

ORDER REMOVING ALL RESTRICTIONS


THIS MATTER came on regularly for consideration on March 24, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of Steven Wayne Easley, M.D. (hereinafter "Licensee"), seeking removal of all restrictions on his license to the practice medicine in the State of Mississippi. By virtue of that certain Consent Order dated March 10, 2010, Licensee's certificate to practice medicine in the State of Mississippi was indefinitely suspended until such time as Licensee received appropriate treatment, obtained affiliation with the Mississippi Professionals Health Program (hereinafter "MPHP") and completed certain continued medical education. In support of Licensee's request for removal of restrictions, the Board has been submitted proof that Licensee has complied with all terms of the aforementioned Consent Order, including confirmation of advocacy and affiliation from the MPHP. Therefore, the Board, after hearing said request, finds the same to be well-taken.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions on his license to practice medicine is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi and is to be monitored by the MPHP for a minimum of five years.

IT IS FURTHER ORDERED, that pursuant to Miss. Code Ann. Sections 73-25-27 and 73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon Steven Wayne Easley, M.D.

ORDERED, this the 24th day of March, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: 
WILLIAM S. MAYO, D.O.
PRESIDENT

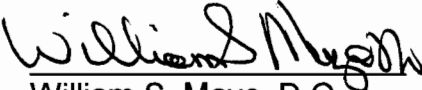
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: XI. Personal appearance by H. Lee Richardson, M.D.

In a motion made by Dr. Jones, seconded by Dr. Aycock, and carried unanimously the Board votes to grant Dr. Richardson his request to 1) mirror Alabama's Consent Order as to restrictions on prescribing authority so that he is restricted from II, IIN, III, and IIIN only, and 2) to grant his request for an opportunity to petition the Board for removal of any and all restrictions when his Alabama license and DEA are fully restored.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Brunson, seconded by Dr. Chance, the Board came out of Executive Session.


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

HARRY LEE RICHARDSON, JR., M.D.

CONSENT ORDER

WHEREAS, Harry Lee Richardson, Jr., M.D., hereinafter referred to as "Licensee," is the current holder of License No. 10330, issued July 01, 1984, for the practice of medicine in the State of Mississippi;

WHEREAS, on August 25, 2010, Licensee was reprimanded, fined and his Alabama Controlled Substance Certificate was restricted to Schedules IV and V for a period of twelve (12) months based on evidence that Licensee violated Ala Code § 34-24-360(2), (3), (13), (22), and (23) (2007), Medical Licensure Commission Rules 545-X-4-06 and 545-X-4-09 and Alabama Board of Medical Examiners Rules 540-X-4-03, 540-X-4-05 and 540-X-4-07. Licensee consented and agreed to the entry of the Consent Order he executed on August 18, 2010. The Alabama State Board of Medical Examiners Stipulation and Consent Order are attached hereto as composite "Exhibit A," and incorporated herein by reference;

WHEREAS, pursuant to Subsections (8)(d) and (9) of Section 73-25-29, Mississippi Code (1972), Annotated, the aforementioned actions by the Alabama State Board of Medical Examiners constitutes restrictions placed on his license in another jurisdiction, grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby indefinitely suspend Licensee's Medical License No. 10330, with the suspension stayed subject to the following probationary terms and conditions, to-wit:

1. Licensee shall surrender all privileges to handle and prescribe controlled substances listed in Schedules II, IIN, III, and IIIN, and will not be permitted to order, manufacture, distribute, possess, dispense, administer or prescribe any controlled substances in said schedules until such time as he is again properly registered with the U.S. Drug Enforcement Administration with prior written approval from the Mississippi State Board of Medical Licensure. Licensee shall execute such forms and documents as required by the U.S. Drug Enforcement Administration to accomplish surrender of his controlled substances privileges in the above enumerated schedules.
2. Within one (1) year of acceptance of this Consent Order, Licensee will obtain forty (40) hours of Continuing Medical Education (CME) in the areas of regulatory issues, record keeping, ethics and prescribing of controlled substances. See list of Board approved courses attached to this document as Exhibit "B." Licensee will submit to the Board documentary proof of successful completion.
3. Licensee shall comply with all Federal and State Laws governing the practice of medicine and shall comply with the rules and regulations of the Board "Pertaining to Prescribing, Administering and Dispensing of Medication," including but not limited to the following :

- a) Licensee shall maintain a complete record of his examination, evaluation and treatment of patients, including documentation of diagnosis and reason for prescribing, dispensing or administering any controlled substance; the name, dose, strength, quantity of the controlled substance and the date the controlled substance was prescribed, dispensed or administered.
- b) Licensee shall not utilize pre-signed prescriptions and shall not delegate to non-physician personnel the responsibility of determining the type, dosage, form, frequency and application of controlled substances or other medication.
- c) All written prescriptions issued by Licensee shall be dated and signed on the day when issued and shall bear the full name and address of the patient.

Licensee shall thoroughly familiarize himself with said rules and regulations and shall so indicate to the Board in writing within one (1) year of approval of this Consent Order.

4. Licensee's practice of medicine shall be subject to periodic surveillance by the Mississippi State Board of Medical Licensure. The Board's Executive Director, any member of the Board, or Investigative staff may perform an unannounced patient chart review of a representative sample of those patients treated by Licensee.
5. During the period of probation, Licensee shall be prohibited from utilizing the services of or collaborating with any Nurse Practitioner or Physician Assistant.
6. In the event Licensee should leave Mississippi to reside or practice outside the State, Licensee shall, within ten (10) days prior to departing, notify the Board in writing of the dates of departure and return. Periods of residency or practice outside Mississippi will not apply to the reduction of time restrictions enumerated in this Order, or lessen the duration of said restrictions.

Licensee shall have the right, but not the obligation, to petition the Board for removal of any or all of the restrictions imposed herein at such time as he has successfully completed all terms and conditions as required by the Alabama Board of Medical Examiners and is released therefrom by order of the Alabama Board. At such time as Licensee petitions this Board for removal of any or all of the restrictions imposed herein, the Board reserves the right, in its sole and absolute discretion, to utilize any information or reports from either the Alabama Board of Medical Examiners or any other source, to impose any other restrictions it deems necessary to protect the public.

Licensee shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss Code Ann., §73-25-30. Licensee shall be advised of the total assessment by separate written notification and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure, on or before forty (40) days from the date Licensee receives the aforementioned notification.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute

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

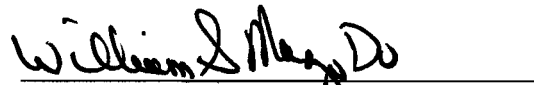
Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Harry Lee Richardson, Jr., M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby indefinitely suspending his license to practice medicine in the State of Mississippi for an indefinite period of time, staying the suspension, subject to those terms and conditions enumerated above.

Executed, this the 24th, day of March, 2011.



Harry Lee Richardson, Jr., M.D.

ACCEPTED AND APPROVED, this the 24th, day of March, 2011, by the Mississippi State Board of Medical Licensure.



William S. Mayo, D.O.
President

the Consent Order agreed to herein under the applicable provisions of the Alabama Administrative Procedure Act.

3. Respondent understands and acknowledges that the Stipulation and Consent Order, if approved and executed by the Medical Licensure Commission, shall constitute a public record under the laws of the state of Alabama.

4. The Alabama Board of Medical Examiners stipulates and agrees that the terms and conditions of the Consent Order stated herein constitute a reasonable disposition of the charges contained in the Administrative Complaint and that such disposition adequately protects the public's health and safety.

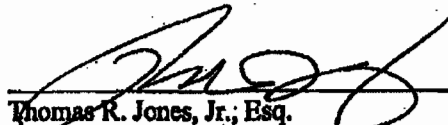
5. It is stipulated and agreed between the parties that this Stipulation and Consent Order be submitted to the Medical Licensure Commission of Alabama, and that the Stipulation and Consent Order is subject to the Commission's approval. It is further agreed by the Respondent that the Medical Licensure Commission shall be permitted to examine and review, prior to approval of the Stipulation, the records and documents now in the possession of the Board of Medical Examiners concerning the stipulation of facts set forth herein. It is further agreed by the Respondent and the Board of Medical Examiners that, in the event the Medical Licensure Commission shall decline to accept this Stipulation and Consent Order as a basis for the disposition of the alleged grounds for imposition of disciplinary sanctions and requires the Board of Medical Examiners to present testimony and documentary exhibits at a subsequent hearing, any admissions by the Respondent in this Stipulation shall be null and void, shall not be binding upon the Respondent and shall not be admissible into evidence at the hearing or any other proceeding, and any consideration by the Commission of the Stipulation and Consent Order

and the documentary evidence referred to herein, shall not be prejudicial to the rights of the Respondent to receive a fair and impartial hearing.

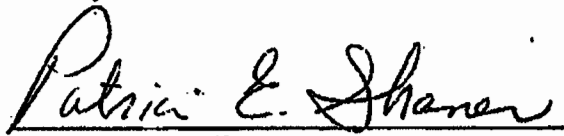
STIPULATED AND AGREED this 18th day of August, 2010.



HARRY LEE RICHARDSON, M. D.



Thomas R. Jones, Jr., Esq.
Attorney for Dr. Richardson



Patricia E. Shaner, Esq.
Attorney for the Alabama Board
of Medical Examiners

CONSENT ORDER

This matter is before the Medical Licensure Commission of Alabama pursuant to an Administrative Complaint filed by the Alabama Board of Medical Examiners on June 15, 2010, and pursuant to a signed Stipulation entered into by the Board of Medical Examiners and the Respondent, HARRY LEE RICHARDSON, M. D., on the 18th day of August, 2010. The Commission hereby finds that it has jurisdiction of the Administrative Complaint and of the parties hereto pursuant to Ala. Code § 34-24-361 (2007).

In consideration of the allegations in the Administrative Complaint and based upon the Stipulation of the parties, the Commission hereby finds that Dr. Richardson's patient records lack appropriate documentation and that Dr. Richardson has failed to protect the authority granted to him by the Commission and the Board concerning the use of his medical license and his Alabama Controlled Substances Certificate number. Such lack of control by Dr. Richardson over his medical practice has resulted in unsecured samples of controlled substances being maintained in the medical office, numerous unauthorized prescriptions for various controlled substances being issued by non-medical office staff, unauthorized ordering and dispensing of controlled substances from the medical office by office staff, and stolen prescription pads from the medical office resulting in numerous forged prescriptions.

Based upon these findings of fact, the Commission concludes that Dr. Richardson has violated Ala. Code §§ 34-24-360(2), (3), (13), (22) and (23) (2007), Medical Licensure Commission Rules 545-X-4-.06 and 545-X-4-.09 and Alabama Board of Medical Examiners Rules 540-X-4-.03, 540-X-4-.05 and 540-X-4-.07.

Based upon the findings of fact and conclusions of law stated herein, the Medical

Licensure Commission hereby ORDERS the following:

1. The license to practice medicine in Alabama of the Respondent, HARRY LEE RICHARDSON, M. D., license number MD.11725, is hereby REPRIMANDED.
2. Dr. Richardson is hereby assessed an administrative fine in the amount of Eighteen Thousand Dollars (\$18,000.00) which is due and payable to the Medical Licensure Commission within thirty (30) days of the date of service of this Consent Order.
3. The Alabama Controlled Substances Certificate (ACSC) of Dr. Richardson is hereby RESTRICTED to Schedules IV and V, and Dr. Richardson shall have no authority to prescribe, furnish, administer, dispense, order or receive samples of controlled substances in Schedules II, IIN, III or IIIN. This restriction on Dr. Richardson's ACSC shall remain in full force and effect for a period of twelve (12) months from the date of this Consent Order. At the end of the twelve (12) month period the Commission shall enter an order requiring that the ACSC be reinstated to full and unrestricted status, provided that Dr. Richardson has complied with all terms and conditions of the Consent Order.
4. Any prescription for a controlled substance issued by Dr. Richardson shall be in writing and shall be manually signed by him. Oral orders are not permitted for prescriptions for controlled substances. A prescription issued by Dr. Richardson for a controlled substance shall not be communicated orally to a pharmacist or pharmacy by an agent or employee of Dr. Richardson.

5. A separate file or log of all controlled substance prescriptions issued by Dr. Richardson shall be maintained, alphabetically, by patient last name and shall contain the following:

- a. The name of the patient;
- b. The date of the prescription;
- c. The drug prescribed and the dosage form and quantity;
- d. The number of refills authorized;
- e. The diagnosis for which the drug was prescribed.

The file or log may be maintained as an electronic record.

6. The Board of Medical Examiners shall make random, unannounced inspections of the separate prescription log and patient medical charts at the discretion of the Board. Failure or refusal to make the prescription log and patient medical charts immediately available to Board agents upon request shall constitute a violation of this Consent Order.

7. Dr. Richardson shall maintain, with regard to all patients, records which shall contain, at a minimum, complete information regarding the following:

- a. The chief complaint;
- b. A history;
- c. A physical examination;
- d. A working diagnosis;
- e. An evaluation plan, to include, when appropriate, lab work, x-rays and consultations;
- f. A treatment plan based upon the evaluation and diagnosis;

g. A record of appropriate medications in amounts and for time periods consistent with the diagnosis.

Additionally, for each patient record, all requirements of Medical Licensure Commission Rule 545-X-4-.09 shall be met.

8. Dr. Richardson shall routinely access the Prescription Drug Monitoring Program of the Alabama Department of Public Health (PDMP) for patients to whom he prescribes controlled substances. Routine access of the PDMP includes checking any new patient before a controlled substance is prescribed to the patient and accessing the PDMP for an established patient when every other controlled substance prescription is written.

The Board of Medical Examiners shall submit a bill of its administrative costs pursuant to Ala. Code § 34-24-381 (2007), as amended by Act No. 2010-713, and Medical Licensure Commission Rule 545-X-3-.08(14)(e) within fifteen (15) days of this Consent Order. If no objection is made to such administrative costs within fifteen (15) days of the filing of the cost bill, such costs shall be due and payable by Dr. Richardson within thirty (30) days of the filing of the cost bill.

The Medical Licensure Commission retains jurisdiction in this matter for the purpose of entering further orders and directives necessary to implement the provisions of this Consent Order. The terms of this Consent Order shall remain in effect until modified, amended or terminated by further Order of the Commission.

ORDERED this 25 day of August, 2010.

James E. West
James E. West, M. D., Chairman
Medical Licensure Commission



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EXHIBIT B

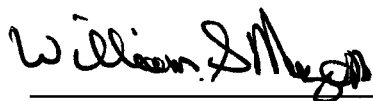
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July 21, 2009

**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: XIII. Hearing in the case of John L. Herzog, M.D.

In a motion made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously the Board finds Licensee is guilty of Count I of unprofessional conduct by virtue of his violation of the 2004 Forbearance Agreement by failure to notify the Board of 2 malpractice lawsuits and a restriction of his hospital privileges by the medical executive committee of DRMC.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			



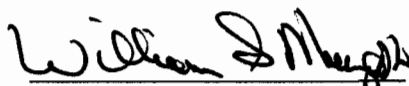
William S. Mayo, D.O.
President

**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: XIII. Hearing in the case of John L. Herzog, M.D.

In a motion made by Dr. Brunson, seconded by Dr. Miles, and carried unanimously the Board finds Licensee is guilty of Count II, violation of Forbearance Agreement by failure to furnish information legally requested by the Board by virtue of his failure to notify the Board of 2 malpractice lawsuits and a restriction of his hospital privileges by the medical executive committee of DRMC.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

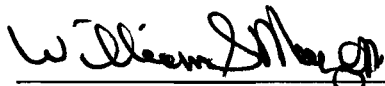

William S. Mayo, D.O.
President

**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: XIII. Hearing in the case of John L. Herzog, M.D.

In a motion made by Dr. Jones, seconded by Dr. Easterling, and carried unanimously the Board finds Licensee is guilty of Count III by failure to abide by provisions of Board Order - Forbearance Agreement of 2004 by virtue of his failure to notify the Board of 2 malpractice cases, an investigation, and restriction of his hospital privileges by the medical executive committee of DRMC.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			



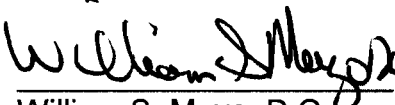
William S. Mayo, D.O.
President

**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: XIII. Hearing in the case of John L. Herzog, M.D.

In a motion made by Dr. Easterling, seconded by Dr. Jones, and carried unanimously the Board finds Licensee is guilty of Count IV, of false or fraudulent statement in connection with his Mississippi licensure documents by virtue of submitting false information on renewal application dated May 5, 2003, and failing to acknowledge on his renewal application pending charges against his Arkansas license.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			



William S. Mayo, D.O.
President

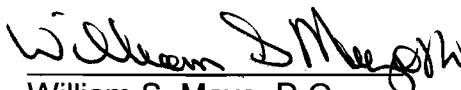
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 24, 2011**

AGENDA ITEM: XIII. Hearing in the case of John L. Herzog, M.D.

Further, the Board finds there are significant concerns about Dr. Herzog's clinical competency in cardiology as reflected in the CPEP report provided July 9, 2010, and by his practice history. The Board advises that Dr. Herzog is immediately prohibited from performing any invasive cardiac procedures until such time as he: 1) successfully completes a clinical competency assessment in invasive cardiology procedures approved by the Executive Committee of the Board or the Board's Executive Director. 2) Dr. Herzog shall complete the ECG interpretation course and then take and pass the ACC/AHA EKG Clinical Competency exam, and 3) Dr. Herzog must address the CPEP educational needs found on pages 7,8,9 and 10 of the CPEP report dated July 9, 2010. Upon completion of the above requirements, Dr. Herzog may petition the Board for reinstatement of his interventional cardiology privileges.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Jones, seconded by Dr. Miles, the Board came out of Executive Session.


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JOHN LEONARD HERZOG, M. D.

ORDER

THIS MATTER came on regularly for hearing on March 24, 2011, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. The Board initiated these proceedings on February 5, 2011, by issuance of a Summons and Affidavit against John Leonard Herzog, M. D. (hereinafter "Licensee") setting forth a total of four (4) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee was present, represented by Honorable Thomas Kirkland and Allison Simpson. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for all proceedings were William S. Mayo, D.O., President; S. Randall Easterling, M.D., Larry B. Aycock, M.D., William B. Jones, M.D., Claude D. Brunson, M.D., Rickey L. Chance, D.O., Virginia M. Crawford, M.D., Philip T. Merideth, M.D., J.D., and Charles D. Miles, M.D.

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact:

1. Licensee is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 09800, which was originally issued on October 19, 1982.
2. On or about September 16, 2002, the Arkansas State Medical Board issued an Order and Notice of Hearing, charging Licensee with violation of the Arkansas Medical Practice Act, more specifically, A.C.A. §17-95-409(a)(2)(g), that is, exhibiting "gross negligence and ignorant malpractice" in the rendering of treatment to his patients. The allegations of negligence and ignorant malpractice pertained primarily to interventional cardiology. In addition, it was noted that Licensee had his medical staff privileges revoked at the Jefferson Regional Medical Center in Jefferson County, Arkansas. On August 21, 2003, Licensee entered into an Agreed Order with the Arkansas State Medical Board, whereby in consideration of dismissal of the pending charges against him, Licensee agreed not to renew his Arkansas medical license nor resume the practice of medicine in the State of Arkansas.
3. That on May 5, 2003, Licensee signed his annual "Application for Renewal of Mississippi License for Doctor of Medicine, Doctor of Osteopathy and Doctor of Podiatric Medicine for the period July 1, 2003 – June 30, 2004." The first question on the form reads, "During the period July 1, 2002 – June 30, 2003, were you the subject of any disciplinary action or investigation by any licensing authority, hospital, institution, or society? If yes, please explain on a separate sheet of paper." Notwithstanding the aforementioned action and notice by the Arkansas Medical Board, Licensee chose to answer "NO" to this question.

4. In lieu of seeking disciplinary action against Licensee by virtue of the events in the State of Arkansas and Licensee's false response on his license renewal, on May 19, 2004, the Board permitted Licensee to sign a non-disciplinary, non-reportable Forbearance Agreement to continue his unrestricted practice of medicine in the state of Mississippi and to avoid a hearing before the Board. This agreement placed in abeyance the Board's then investigation and formal, disciplinary action, based on five requirements and restrictions. Requirement No. 2 of the Forbearance Agreement reads, "Licensee shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state or privileges at any hospital in any state be subject to investigation or disciplinary action. Further, Licensee shall report in the same manner, any claims or settlements for medical malpractice."
5. On or about May 12, 2006, Licensee was named as defendant in a malpractice lawsuit in Circuit Court of Bolivar County in Cause No. 2006-0043, styled, *Estate of Levon R. Jefferson v. Herzog, et al.* At no time during the pendency of the above malpractice suit did Licensee notify the Board as was required by the previously executed Forbearance Agreement with the Board.
6. On April 10, 2009, Delta Regional Medical Center (DRMC) in Greenville, Mississippi, notified the Board that on April 10, 2009, DRMC reported to the National Practitioner Data Bank an Adverse Action regarding Licensee. This Action was effective immediately and indefinitely suspended Licensee's clinical privileges on March 11, 2009, after an internal and external peer review of Licensee's cases secondary to unanticipated outcomes. Following a hearing

and subsequent monitoring, Licensee's medical staff privileges were ultimately reinstated at DRMC. At no time during the occurrence of the above events did Licensee notify the Board of the Adverse Actions reported to the National Practitioner Data Bank or suspension of his clinical privileges at DRMC as was required by the previously executed Forbearance Agreement with the Board.

7. On August 26, 2009, Licensee was named as a defendant filed in the Circuit Court of Bolivar Count in Cause No. 2009-0064, styled *Willie George Smith administrator of the estate of Willie Mae Smith, deceased vs Province Healthcare dba Bolivar Medical Center, EMCARE, Inc, and John Herzog, M.D.* The documents charge medical malpractice, general negligence, and wrongful death on the part of all parties involved. At no time during the pendency of the above malpractice suit did Licensee notify the Board as was required by the previously executed Forbearance Agreement with the Board.
8. On January 20, 2010, Licensee appeared before the Board's Executive Committee to discuss his violation of the Forbearance Agreement as a result of the actions taken by the Delta Regional Medical Center, Greenville, Mississippi, and to discuss the Executive Committee's concerns about his competency and judgment when performing invasive cardiology procedures. The Executive Committee was not aware of the two malpractice suits, and therefore did not address the same. At no time during his appearance before the Committee did Licensee mention the malpractice actions. The Executive Committee instructed the Executive Director of the Board to communicate with Licensee its concerns about Licensee's competency in cardiology procedures

and the need for Licensee to undergo an evaluation at the Center for Professional Education for Physicians in Denver, Colorado (hereinafter "CPEP").

9. By letter dated January 26, 2010, the Executive Director of the Board notified Licensee of the Executive Committee's ongoing concerns about his competency and judgment pertaining to invasive cardiology procedures. Licensee was directed to contact CPEP and schedule himself for a clinical evaluation. Licensee thereafter reported to CPEP for an evaluation on April 26 -27, 2010.
10. On July 9, 2010, CPEP rendered its report of assessment. Overall, the assessment indicated that Licensee demonstrated medical knowledge that was good, overall, but with important gaps. His clinical judgment and reasoning were good in some respects, but variable in others, with instances of poor application of knowledge and practice. The report detailed an educational plan including, but not limited to, an educational preceptor. The relationship with the preceptor was described as an educational process and not a practice monitoring. CPEP also recommended continuing medical education, especially in the area of ECG interpretation skills. It was further noted that the assessment "does not involve direct observation of the participant/physician at work or in a procedural setting. Our conclusions, therefore, can address only whether the physician possesses knowledge and judgment necessary to perform. We cannot predict actual behavior."

11. By way of correspondence, Licensee ultimately advised the Board that he had retained the services of a preceptor to review cases as an educational process and not as a practice monitor. Licensee also secured a commitment to attend a CME course acceptable to the Board. As of the date of the hearing, Licensee's preceptor had filed two (2) quarterly reports with no derogatory information. Licensee is scheduled to attend the CME in ECG interpretation skills in May, 2011.
12. Notwithstanding Licensee's efforts to comply with the CPEP evaluation, the Board finds that Licensee's clinical skills are seriously in question. While the CPEP report suggests and has made adequate provision to address Licensee's knowledge and judgment necessary to perform interventional cardiac procedures, no such evaluation can predict actual behavior. It is Licensee's actual clinical performance that remains in doubt. During the hearing, Licensee repeatedly failed to adequately recall the details of the Forbearance Agreement or the significance of his failure to report two (2) malpractice claims and the action taken by the Delta Regional Medical Center. While the Board expects Licensee to promptly and correctly pursue the educational proctoring which he needs and the continuing medical education in ECG interpretation skills, it is believed that Licensee is in need of additional assessment of his clinical skills, including manual dexterity necessary to perform invasive cardiac procedures.

CONCLUSIONS OF LAW

Based on the Finding of Facts as enumerated above, Licensee is guilty of Counts One, Two, Three and Four of the Affidavit as filed with the Board. Specifically, Licensee is guilty of unprofessional conduct, which includes, but is not limited to any dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Miss. Code Ann., §73-25-29(8)(d) and 73-24-83(a); has failed to furnish the Board, its investigators or representatives information legally requested by the Board in violation of Miss. Code Ann., §73-25-29(12); has failed to abide by the provisions of an order or agreement with the Board in violation of Miss. Code Ann., §73-25-29(13); and is guilty of the 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 licensing requirements in violation of Miss. Code Ann., §73-25-29(8)(f).

ORDER

IT IS THEREFORE, ORDERED that John L. Herzog, M.D. is hereby immediately prohibited from performing any invasive cardiac procedures until such time as he:

1. Successfully completes a clinical competency assessment in invasive cardiology procedures approved by the Executive Committee of the Board or the Board's Executive Director. It is the intent of this restriction to assess Dr. Herzog's clinical skills, including manual dexterity, in a clinical environment where actual patients are treated under direct supervision.
2. Dr. Herzog shall complete the ECG interpretation training class conducted by the National Procedures Institute – NPI, scheduled for May 12 and 13, 2011,

afterwhich, Dr. Herzog shall take and pass the ACC/AHA EKG Clinical Competency exam.

3. Dr. Herzog must address the CPEP educational needs found on pages 7, 8, 9 and 10 of the CPEP report of July 9, 2010.

Upon completion of each of the above requirements, Dr. Herzog may petition the Board for reinstatement of his interventional cardiology privileges.

IT IS FURTHER ORDERED, that Dr. Herzog shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Mississippi Code Annotated, Section 73-25-30. Dr. Herzog shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date of mailing of the notification.

IT IS FURTHER ORDERED that pursuant to Section 73-25-27, a copy of this Determination and Order shall be sent by registered mail, or personally served upon John L. Herzog, M.D. or his Counsel. Because Dr. Herzog was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 24th day of March, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
**WILLIAM S. MAYO, D. O.
PRESIDENT**

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JAY PAUL JACOBS, II, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on March 24, 2011, before the Mississippi State Board of Medical Licensure, in response to a request for continuance of the hearing set for this date made by the Board's Complaint Counsel. After consideration of the matter, the Board finds the motion to be well taken.

IT IS, THEREFORE, ORDERED, that this matter is continued until May 12, 2011, at 10:00 a.m.

SO ORDERED, this the 24th day of March, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: _____

William S. Mayo, D.O.

**WILLIAM S. MAYO, D.O.
PRESIDENT**

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

JAMES LUTHER CRABB, M.D.

CONSENT ORDER

WHEREAS, James Luther Crabb, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 06812, issued December 7, 1973, for the practice of medicine in the State of Mississippi;

WHEREAS, on September 14, 2010, Licensee was placed on probation based on evidence that Licensee violated statutes or rules of the Tennessee Medical Practice Act, Tenn. Code Ann. § 63-6-101, Tenn. Comp. R. & Regs, and Tenn Code Ann. § 63-6-214(b)(1),(4). Licensee consented and agreed to the entry of the Consent Order he executed on August 12, 2010. The Tennessee Board of Medical Examiners Consent Order is attached hereto as composite "Exhibit A," and incorporated herein by reference;

WHEREAS, pursuant to Subsections (8)(d) and (9) of Section 73-25-29, Mississippi Code (1972), Annotated, the aforementioned actions by the Tennessee Board of Medical Examiners constitutes restrictions placed on his license in another jurisdiction, are grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby indefinitely suspend Licensee's Certificate No. 06812, with the suspension stayed subject to the following probationary terms and conditions:

1. Licensee shall strictly comply with all of the terms and conditions of probation on his license to practice medicine in the State of Tennessee. In the event Licensee fails to comply with any conditions imposed on him by the State of Tennessee, the stay of suspension of his license shall be immediately removed and Licensee shall be prohibited from practicing medicine until such time as a determination is made by the Mississippi State Board of Medical Licensure that Licensee is again ready to return to the practice of medicine. Summary suspension pursuant to this paragraph shall be for an indefinite period of time, notwithstanding any term or right to petition for reinstatement provided herein.
2. Licensee shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.
3. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.
4. Licensee shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss Code Ann. §73-25-30. Licensee shall be advised of the total assessment by separate written notification and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure, on or before forty (40) days from the date Licensee receives the aforementioned notification.

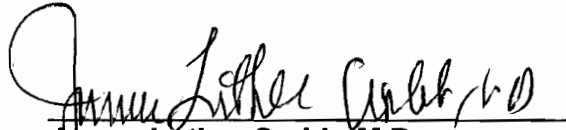
Licensee shall have the right, but not the obligation, to petition the Board for removal of any or all of the restrictions imposed herein at such time as he has successfully completed all terms and conditions as required by the Tennessee Board of Medical Examiners and is released therefrom by order of the Tennessee Board. At such time as Licensee petitions this Board for removal of any or all of the restrictions imposed herein, the Board reserves the right, in its sole and absolute discretion, to utilize any information or reports from either the Tennessee Board of Medical Examiners or any other source, to impose any other restrictions it deems necessary to protect the public.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

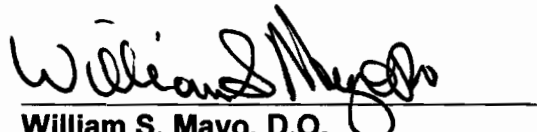
Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the State of Mississippi. Licensee further acknowledges that the Board shall provide a copy of this Order to, among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

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, James Luther Crabb, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby indefinitely suspending his license to practice medicine in the State of Mississippi for an indefinite period of time, staying the suspension, subject to those terms and conditions enumerated above.

Executed, this the 24th, day of March, 2011.


James Luther Crabb, M.D.

ACCEPTED AND APPROVED, this the 24th, day of March, 2011, by the Mississippi State Board of Medical Licensure.


William S. Mayo, D.O.
President

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE
)	BOARD OF MEDICAL EXAMINERS
JAMES L. CRABB, M.D.,)	
RESPONDENT)	CASE NO.: 2009014381
)	
BRENTWOOD, TN)	
TENNESSEE LICENSE NO.: 7971)	

CONSENT ORDER

Comes now the Division of Health Related Boards of the Tennessee Department of Health ("State"), by and through the Office of General Counsel, and Respondent, James L. Crabb, M.D., ("Respondent"), and respectfully moves the Tennessee Board of Medical Examiners ("Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. TENN. CODE ANN. § 63-6-101, *et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining medical doctors who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation of Rules and Regulations of the State of Tennessee ("TENN. COMP. R. & REGS.").

The Respondent, by his signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that

EXHIBIT A

presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against the Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

I. STIPULATIONS OF FACT

1. The Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted license number 79715 on January 1, 1973.
2. On April 18, 2009, Respondent examined patient "HD" who was complaining of chest pains in the emergency room at Humboldt General Hospital.
3. Respondent diagnosed patient "HD" with pleurisy and discharged him with pain pills and instructions to follow up with his physician.
4. Patient "HD" was brought back into the emergency room one hour later by the EMS and was pronounced dead on arrival.
5. On or around May 19, 2009, the Respondent's Emergency Department privileges were

precautionarily suspended upon the request of the Patient Care Committee of Humboldt General Hospital.

II. GROUNDS FOR DISCIPLINE

6. The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, TENN. CODE ANN. § 63-6-101, *et seq.* and TENN. COMP. R. & REGS for which disciplinary action before and by the Board is authorized:
7. The facts stipulated in paragraphs 2 through 4, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1), (4):
 - (1) Unprofessional, dishonorable or unethical conduct;
 - (4) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of medical practice;

III. POLICY STATEMENT

The Tennessee Board of Medical Examiners takes the following action in order to protect the health, safety and welfare of the citizens of the State of Tennessee.

IV. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

8. Respondent's Tennessee Medical License is hereby immediately placed upon **PROBATION** for a period of not less than three (3) years and until Respondent has completed the requirements in paragraphs 9 through 11. Respondent must petition for an Order of Compliance for the Probation on Respondent's license to be lifted.

9. Respondent shall undergo an evaluation by the Center for Personalized Education of Physicians ("CPEP") or another program preapproved by the Board's Consultant within sixty (60) days of the entry of this Order. Respondent shall cause a copy of the CPEP assessment to be forwarded to the Board's Consultant by CPEP. Respondent shall comply with all recommendations of CPEP. If CPEP recommends that Respondent enter into a training or educational program then Respondent shall cause CPEP and the individual educators to provide quarterly reports documenting Respondent's compliance with the CPEP educational requirements as well as Respondent's fitness to practice medicine to the Board's Consultant.
10. Respondent is assessed one Type "A" Civil Penalty in the amount of one thousand dollars (\$1,000.00) for a total of one thousand dollars (\$1,000.00). Representing one violation of law found in paragraphs 2-5.
11. Any and all civil penalties shall be paid in full within thirty (30) days of the entry of this Order. Payment shall be made by certified check, cashier's check, or money order, payable to the State of Tennessee, Department of Health. Any and all payments shall be forwarded to the Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, Heritage Place Metro Center, 227 French Landing, Suite 201, Nashville, Tennessee 37243. A notation shall be placed on said money order or such check that it is payable for the Civil Penalties of James L. Crabb, M.D., Case No. 2009014381.
12. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank and/or similar agency.

This Consent Order was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 14th day of September, 2010.

Charles W. White

Chairperson
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:

James L. Crabb, MD
James L. Crabb, M.D.

8/12/2010
DATE

B. C. Mezer
Benjamin C. Mezer, BPR # 027426
Assistant General Counsel
Office of General Counsel
Suite 210
220 Athens Way
Nashville, Tennessee 37243
(615) 741-1611

8/23/10
DATE

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

DAVID CALLAHAN SCHAFF, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, I, David Callahan Schaff, M.D., hereinafter referred to as "Licensee," am the current holder of License Number 08421, issued in August 8, 1978, to practice medicine in the State of Mississippi;

WHEREAS, It is my wish to surrender my current license (No. 08421) to practice medicine in the State of Mississippi;

NOW, THEREFORE, I hereby voluntarily surrender my medical license (No. 08421) to practice medicine in the State of Mississippi said surrender is effective immediately. I understand that this is an unconditional surrender, is reportable as disciplinary action to the National Practitioner Data Bank, and is a public record of the State of Mississippi. Further, I understand that in the event I later decide to practice medicine in the State of Mississippi, it will be necessary for me to make application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

EXECUTED this the 8th day of February, 2011.

Margaret Schaff
Witness

David Callahan Schaff, M.D.
David Callahan Schaff, M.D.

ACCEPTED AND APPROVED this the 24th day of March 2011, by the Mississippi State Board of Medical Licensure.

William J. Mayson
President

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman		TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson		STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 03/25/2011	Name or number of rule(s): 30.II.17.100 and 30.II.17.103 - The Practice of Acupuncture			

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to a current rule which requires the written referral for the treatment of infertility to come from a physician who practices obstetrics and gynecology. The amendment also requires physicians who wish to practice acupuncture to submit documentation of CME hours and obtain approval from the Board prior to practicing acupuncture in the State.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.17

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: _____ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: _____ 30 days after filing _____ Other (specify): _____	Action taken: _____ Adopted with no changes in text <input checked="" type="checkbox"/> Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman, Bureau Director
 Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	OFFICIAL FILING STAMP <div style="border: 1px solid black; padding: 10px; text-align: center;"> FILED MAR 25 2011 MISSISSIPPI SECRETARY OF STATE </div> Accepted for filing by <u>CBE 17677</u> Proposed <u>1-24-2011</u>
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Chapter 17 The Practice of Acupuncture

Scope

- 100 The following regulations 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.
- 101 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.
- 102 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.
- 103 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.
- 104 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 (Rev. 2009)

Chapter 17 The Practice of Acupuncture

Scope

- 100 The following regulations 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.
- 101 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.
- 102 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.
- 103 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.
- 104 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 (Rev. 2009)

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 03/25/2011	Name or number of rule(s): 30.II.25.1000 - Regulations Pertaining to Prescribing, Administering and Dispensing of Medications		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to the current regulation and allows electronic prescriptions for controlled substances.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.25

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: _____ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: _____ 30 days after filing _____ Other (specify): _____	Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman, Bureau Director
 Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 100px; width: 100%;"></div> Accepted for filing by _____	OFFICIAL FILING STAMP <div style="border: 1px solid black; padding: 10px; text-align: center;"> FILED MAR 25 2011 MISSISSIPPI SECRETARY OF STATE </div> Accepted for filing by <u>CBE 17673</u>
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Chapter 25 Regulations Pertaining to Prescribing, Administering and Dispensing of Medication

Scope

- 100 These regulations apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 25 only, the following terms have the meanings indicated:
1. “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.
 2. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 3. “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.
 4. “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.
 5. For the purpose of enforcement of the labeling requirements set forth in Section 601 of these regulations, “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.
 6. “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.

Registration for Controlled Substances Certificate

- 300 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.
- 301 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 Section 300 above. 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.

- 302 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 regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.
- 303 The registration requirement set forth in these regulations 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).

Maintenance of Records and Inventories

- 400 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 chapter.
- 401 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.
- 402 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:
1. The date the controlled substance was dispensed or administered.
 2. The name, quantity and strength/dose of the controlled substance dispensed or administered.
 3. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.

4. The name and address of the patient to whom the controlled substance was dispensed or administered.
 5. For all Schedules II and III amphetamines, amphetamine-like anorectic drugs, or sympathomimetic amine drugs dispensed in the treatment of narcolepsy, hyperkinesia, 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.
- 403 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 "C" and "D" to these regulations.
- 404 **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 section 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.
- 405 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.*

***COMMENT: A determination as to whether a "good faith prior examination and medical indication therefore" 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 P2d 7 (Ca. 1945); **Dannerberg v. Board of Regents**, 430 N.Y.2d 700 (1980) (issuance of three prescriptions

- 406 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.
- 407 The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these regulations 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.
- 408 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.

Use of Diet Medication

- 500 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

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.

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.

501 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, 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, that all of the following conditions are met:

1. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician determines through review of his or her own records of prior treatment, or thorough review of the records of prior treatment which another treating physician or weight-loss program has provided to the physician, that the patient has made a substantial good-faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, behavior modification, and exercise, without the utilization of controlled substances, and that said treatment has been ineffective.
2. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized. "Recognized contraindication" means any contraindication to the use of a drug which is listed in the United States Food and Drug Administration (hereinafter, "F.D.A.") approved labeling for the drug.
3. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe that a recognized contraindication to its use exists.
4. The physician shall not utilize any Schedules III, IV or V controlled substance in the treatment of a patient whom he or she knows or should know is pregnant.
5. As to those controlled substances in Schedules III, IV or V which are classified as amphetamine or amphetamine-like anorectics and/or central nervous system stimulants, hereinafter referred to as "stimulant", the physician shall not initiate or shall discontinue utilizing said controlled substance stimulant immediately upon ascertaining or having reason to believe:
 - a. That the patient has failed to lose weight while under treatment with said stimulant over a period of thirty (30) days, which determination shall be made by weighing the patient at least every thirtieth (30th) day, except that a patient who has never before received treatment for obesity utilizing a stimulant, and who fails to lose weight during his or her first such treatment attempt may be treated with a different controlled substance for an additional thirty (30) days.
 - b. That the patient has developed tolerance (a decreasing contribution of the drug toward further weight loss) to the anorectic effects of said stimulant being utilized.
 - c. That the patient has a history of or shows a propensity for alcohol or drug abuse.
 - d. That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.

In addition to the above the physician shall not issue a prescription or dispense a stimulant for any greater than a thirty (30) day supply; and a patient's use of stimulants, whether by dispensation or prescription shall be limited to no more than six (6) thirty (30) day supplies during any twelve (12) month period of time. In any case, the total amount of medication shall not exceed a six (6) month supply in the twelve month time period. For the purposes of this paragraph, a twelve (12) month time period is considered to begin on the day of the initial dispensation or prescription issuance.

6. As to all other legend drugs or controlled substances in Schedules III, IV and V which are not considered stimulants but which have received FDA approved indication for long-term use for weight loss, the physician shall administer, dispense or prescribe said medications in strict compliance with the FDA-approved labeling. In addition to the requirements enumerated at 501.5.a-d above, each prescription shall be issued for no more than a total of three months supply (including refills) and further, before subsequent new prescriptions can be issued the patient shall receive a thorough reevaluation of the effectiveness of the medication, including a physical examination to document any potential harmful side effects.

- 502 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.

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

600 Definitions

For the purpose of Section 600 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 section, "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.

601 Notwithstanding any other provisions of these rules and regulations, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIN, 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.

602 Notwithstanding any other provisions of these rules and regulations, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIN, 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, IIN, 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.
- 603 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.
- 604 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.
- 605 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.

Drug Maintenance Requirements

- 700 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 section are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules and Regulations of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.
- 701 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.
- 702 The drug storage and dispensing area shall be maintained in a sanitary fashion.
- 703 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.
- 704 All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

Labeling Requirements for Dispensing Physicians

- 800 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.
- 801 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:
1. The name of the patient to whom the medication was dispensed.
 2. The date that the medication was dispensed.
 3. The name, strength and quantity of the medication.
 4. Direction for taking or administering the medication.
 5. The name and address of the physician dispensing the medication.

The label required by this section 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.

- 802 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.

Prescription Guidelines–Controlled Substances

- 900 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:
1. 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.
 2. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark “none.”
 3. 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.
 4. 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.
 5. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
 6. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photostatically 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:
 - a. 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 section are in addition to, and not in lieu of documentation required in Section 404.

- b. 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 Section 900.6.a above.
- c. 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 Section 900.6.a above.
- d. 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.
7. No more than one (1) controlled substance shall be issued on a single prescription blank.

Prescription Guidelines - All Medications

- 1000 In addition to any other requirements set forth in these regulations 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:
1. 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.
 2. 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 section. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
 3. 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 control substances prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.
 4. 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.

5. If a prescription form which does not contain two signature lines required in Section 1000.3 of this Chapter 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.
6. 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.

7. A prescription shall no longer be valid after the occurrence of any one of the following events:
 - a. Thirty (30) days after the death of the issuing physician.
 - b. 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.
 - c. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
 - d. Immediately after revocation, suspension or surrender of the physician's license.

Freedom of Choice

- 1100 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.
- 1101 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.
- 1102 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.

Other Drugs Having Addiction-forming Liability

- 1200 All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Section 400 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.

Security of Controlled Substances

- 1300 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.

- 1301 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.

Violation of Regulations

- 1400 The prescribing, administering or dispensing of any controlled substance in violation of the above rules and regulations 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).
- 1401 The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules and regulations 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).

Effective Date of Regulations

- 1500 The above rules and regulations 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; and as amended March 24, 2011.

Source: *Miss. Code Ann.* §73-43-11 (Rev. 1972)

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 03/25/2011	Name or number of rule(s): 30.II.25.200 & 30.II.25.1400 - Regulations Pertaining to Prescribing, Administering and Dispensing of Medications		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to the current regulation which defines and establishes regulations to operate pain management clinics.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.25 _____

ORAL PROCEEDING:

An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

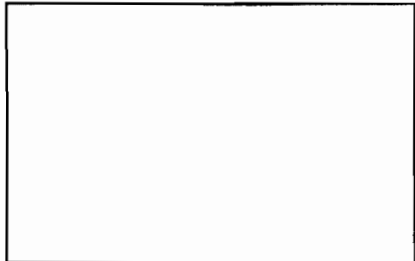
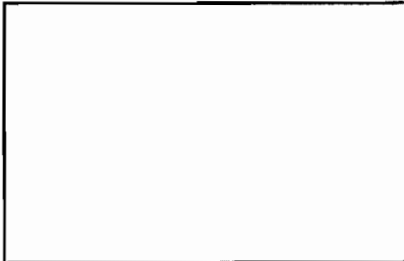
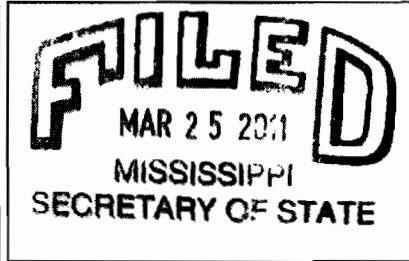
ECONOMIC IMPACT STATEMENT:

Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately on <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed date of adoption: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Action taken: <input type="checkbox"/> Adopted with no changes in text <input checked="" type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP  Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by _____	OFFICIAL FILING STAMP  Accepted for filing by <i>CB-E 17674</i>
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Chapter 25 Regulations Pertaining to Prescribing, Administering and Dispensing of Medication

Scope

- 100 These regulations apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 25 only, the following terms have the meanings indicated:
1. “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.
 2. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 3. “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.
 4. “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.
 5. For the purpose of enforcement of the labeling requirements set forth in Section 601 of these regulations, “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.
 6. “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.
 7. “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, butabital compounds, or tramadol.

Registration for Controlled Substances Certificate

- 300 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.
- 301 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

Section 300 above. 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.

- 302 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 regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.
- 303 The registration requirement set forth in these regulations 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).

Maintenance of Records and Inventories

- 400 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 chapter.
- 401 Controlled substances inventory record. All controlled substances classified under Schedules II, IIN, III, IIN, 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, IIN, 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.
- 402 Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIN, 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, IIN, 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, IIN, IV and V controlled substances. The record shall contain the following information:
1. The date the controlled substance was dispensed or administered.
 2. The name, quantity and strength/dose of the controlled substance dispensed or administered.

3. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.
 4. The name and address of the patient to whom the controlled substance was dispensed or administered.
 5. 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.
- 403 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 "C" and "D" to these regulations.
- 404 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 section 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.
- 405 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.*

***COMMENT: A determination as to whether a "good faith prior examination and medical indication therefore" 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

- 406 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.
- 407 The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these regulations 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.
- 408 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.

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.

Use of Diet Medication

- 500 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.
- 501 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, 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, that all of the following conditions are met:
1. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician determines through review of his or her own records of prior treatment, or thorough review of the records of prior treatment which another treating physician or weight-loss program has provided to the physician, that the patient has made a substantial good-faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, behavior modification, and exercise, without the utilization of controlled substances, and that said treatment has been ineffective.
 2. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized.
“Recognized contraindication” means any contraindication to the use of a drug which is listed in the United States Food and Drug Administration (hereinafter, “F.D.A.”) approved labeling for the drug.
 3. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe that a recognized contraindication to its use exists.
 4. The physician shall not utilize any Schedules III, IV or V controlled substance in the treatment of a patient whom he or she knows or should know is pregnant.
 5. As to those controlled substances in Schedules III, IV or V which are classified as amphetamine or amphetamine-like anorectics and/or central nervous system stimulants, hereinafter referred to as “stimulant”, the physician shall not initiate or shall discontinue utilizing said controlled substance stimulant immediately upon ascertaining or having reason to believe:
 - a. That the patient has failed to lose weight while under treatment with said stimulant over a period of thirty (30) days, which determination shall be made by weighing the patient at least every thirtieth (30th) day, except that a patient who has never before received treatment for obesity utilizing a stimulant, and who fails to lose weight during his or her first such treatment attempt may be treated with a different controlled substance for an additional thirty (30) days.
 - b. That the patient has developed tolerance (a decreasing contribution of the drug toward further weight loss) to the anorectic effects of said stimulant being utilized.

- c. That the patient has a history of or shows a propensity for alcohol or drug abuse.
- d. That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.

In addition to the above the physician shall not issue a prescription or dispense a stimulant for any greater than a thirty (30) day supply; and a patient's use of stimulants, whether by dispensation or prescription shall be limited to no more than six (6) thirty (30) day supplies during any twelve (12) month period of time. In any case, the total amount of medication shall not exceed a six (6) month supply in the twelve month time period. For the purposes of this paragraph, a twelve (12) month time period is considered to begin on the day of the initial dispensation or prescription issuance.

- 6. As to all other legend drugs or controlled substances in Schedules III, IV and V which are not considered stimulants but which have received FDA approved indication for long-term use for weight loss, the physician shall administer, dispense or prescribe said medications in strict compliance with the FDA-approved labeling. In addition to the requirements enumerated at 501.5.a-d above, each prescription shall be issued for no more than a total of three months supply (including refills) and further, before subsequent new prescriptions can be issued the patient shall receive a thorough reevaluation of the effectiveness of the medication, including a physical examination to document any potential harmful side effects.

502 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.

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

600 Definitions

For the purpose of Section 600 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 section, "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.

601 Notwithstanding any other provisions of these rules and regulations, 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.

602 Notwithstanding any other provisions of these rules and regulations, 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 patients 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.
- 603 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.
- 604 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.
- 605 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.

Drug Maintenance Requirements

- 700 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 section are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules and Regulations of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.
- 701 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.
- 702 The drug storage and dispensing area shall be maintained in a sanitary fashion.
- 703 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.
- 704 All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

Labeling Requirements for Dispensing Physicians

- 800 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.
- 801 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:
1. The name of the patient to whom the medication was dispensed.
 2. The date that the medication was dispensed.
 3. The name, strength and quantity of the medication.
 4. Direction for taking or administering the medication.

5. The name and address of the physician dispensing the medication. The label required by this section 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.

802 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.

Prescription Guidelines—Controlled Substances

900 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:

1. 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.
2. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
3. 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.
4. 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.
5. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
6. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photostatically 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:
 - a. 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 section are in addition to, and not in lieu of documentation required in Section 404.

- b. 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 Section 900.6.a above.
- c. 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 Section 900.6.a above.
- d. 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.
7. No more than one (1) controlled substance shall be issued on a single prescription blank.

Prescription Guidelines - All Medications

- 1000 In addition to any other requirements set forth in these regulations 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:
1. 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.
 2. 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 section. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed or electronically transmitted.
 3. 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.

4. If a prescription form which does not contain two signature lines required in Section 1000.3 of this Chapter 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.
5. 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.

6. A prescription shall no longer be valid after the occurrence of any one of the following events:
 - a. Thirty (30) days after the death of the issuing physician.
 - b. 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.
 - c. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
 - d. Immediately after revocation, suspension or surrender of the physician's license.

Freedom of Choice

- 1100 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.

- 1101 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.
- 1102 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.

Other Drugs Having Addiction-forming Liability

- 1200 All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Section 400 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.

Security of Controlled Substances

- 1300 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.
- 1301 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.

Pain Management Clinics

- 1400 The physician owner/operator of the pain management clinic shall register with MSBML. The form to register is attached hereto (Appendix E). 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 clinic. Each clinic requires a separate certificate.
- 1401 A pain management clinic may not operate in the State of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.
- 1402 A pain management clinic may not operate in Mississippi unless the clinic is owned and 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.
 3. Holds a certificate of registration for that pain management clinic.
- 1403 In addition, the owner/operator of a pain management clinic, an employee of the clinic or a person with whom a clinic contracts for services may not:
1. Have been denied, by any jurisdiction, a license 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 license 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; or
 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.
- 1404 A pain management clinic may not be owned wholly or partly by any person who has been convicted of, pled nolo contendere to or received deferred adjudication for:
1. an offense that constitutes a felony; or
 2. an offence that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.
- 1405 Certificates are valid for one year and must be renewed annually with the practitioners 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 has expired.

Violation of Regulations

- 1500 The prescribing, administering or dispensing of any controlled substance in violation of the above rules and regulations 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).
- 1501 The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules and regulations 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).

Effective Date of Regulations

- 1600 The above rules and regulations 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; and as amended March 24, 2011.

Source: *Miss. Code Ann.* §73-43-11 (Rev. 1972)

Chapter 25 Regulations Pertaining to Prescribing, Administering and Dispensing of Medication

Scope

- 100 These regulations apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

Definitions

- 201 For the purpose of Chapter 25 only, the following terms have the meanings indicated:
1. “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.
 2. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 3. “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.
 4. “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.
 5. For the purpose of enforcement of the labeling requirements set forth in Section 601 of these regulations, “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.
 6. “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.
 7. “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, butabital compounds, or tramadol.

Registration for Controlled Substances Certificate

- 300 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.
- 301 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

Section 300 above. 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.

- 302 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 regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.
- 303 The registration requirement set forth in these regulations 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).

Maintenance of Records and Inventories

- 400 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 chapter.
- 401 Controlled substances inventory record. All controlled substances classified under Schedules II, IIN, III, IIN, 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, IIN, 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.
- 403 Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIN, 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, IIN, 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, IIN, IV and V controlled substances. The record shall contain the following information:
1. The date the controlled substance was dispensed or administered.
 2. The name, quantity and strength/dose of the controlled substance dispensed or administered.

3. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.
 4. The name and address of the patient to whom the controlled substance was dispensed or administered.
 5. 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.
- 403 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 "C" and "D" to these regulations.
- 404 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 section 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.
- 405 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.

***COMMENT: A determination as to whether a "good faith prior examination and medical indication therefore" 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

- 406 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.
- 407 The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these regulations 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.
- 408 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.

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.

Use of Diet Medication

- 500 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.
- 502 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, 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, that all of the following conditions are met:
1. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician determines through review of his or her own records of prior treatment, or thorough review of the records of prior treatment which another treating physician or weight-loss program has provided to the physician, that the patient has made a substantial good-faith effort to lose weight in a treatment program utilizing a regimen of weight reduction based on caloric restriction, nutritional counseling, behavior modification, and exercise, without the utilization of controlled substances, and that said treatment has been ineffective.
 2. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician obtains a thorough history, performs a thorough physical examination of the patient, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized. "Recognized contraindication" means any contraindication to the use of a drug which is listed in the United States Food and Drug Administration (hereinafter, "F.D.A.") approved labeling for the drug.
 3. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe that a recognized contraindication to its use exists.
 4. The physician shall not utilize any Schedules III, IV or V controlled substance in the treatment of a patient whom he or she knows or should know is pregnant.
 5. As to those controlled substances in Schedules III, IV or V which are classified as amphetamine or amphetamine-like anorectics and/or central nervous system stimulants, hereinafter referred to as "stimulant", the physician shall not initiate or shall discontinue utilizing said controlled substance stimulant immediately upon ascertaining or having reason to believe:
 - a. That the patient has failed to lose weight while under treatment with said stimulant over a period of thirty (30) days, which determination shall be made by weighing the patient at least every thirtieth (30th) day, except that a patient who has never before received treatment for obesity utilizing a stimulant, and who fails to lose weight during his or her first such treatment attempt may be treated with a different controlled substance for an additional thirty (30) days.
 - b. That the patient has developed tolerance (a decreasing contribution of the drug toward further weight loss) to the anorectic effects of said stimulant being utilized.

- c. That the patient has a history of or shows a propensity for alcohol or drug abuse.
- d. That the patient has consumed or disposed of any controlled substance other than in strict compliance with the treating physician's directions.

In addition to the above the physician shall not issue a prescription or dispense a stimulant for any greater than a thirty (30) day supply; and a patient's use of stimulants, whether by dispensation or prescription shall be limited to no more than six (6) thirty (30) day supplies during any twelve (12) month period of time. In any case, the total amount of medication shall not exceed a six (6) month supply in the twelve month time period. For the purposes of this paragraph, a twelve (12) month time period is considered to begin on the day of the initial dispensation or prescription issuance.

- 6. As to all other legend drugs or controlled substances in Schedules III, IV and V which are not considered stimulants but which have received FDA approved indication for long-term use for weight loss, the physician shall administer, dispense or prescribe said medications in strict compliance with the FDA-approved labeling. In addition to the requirements enumerated at 501.5.a-d above, each prescription shall be issued for no more than a total of three months supply (including refills) and further, before subsequent new prescriptions can be issued the patient shall receive a thorough reevaluation of the effectiveness of the medication, including a physical examination to document any potential harmful side effects.

502 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.

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

600 Definitions

For the purpose of Section 600 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 section, "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.

601 Notwithstanding any other provisions of these rules and regulations, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIN, 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.

603 Notwithstanding any other provisions of these rules and regulations, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIN, 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, IIN, 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.
- 603 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.
- 604 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.
- 605 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.

Drug Maintenance Requirements

- 700 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 section are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules and Regulations of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.
- 701 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.
- 702 The drug storage and dispensing area shall be maintained in a sanitary fashion.
- 703 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.
- 704 All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

Labeling Requirements for Dispensing Physicians

- 800 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.
- 802 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:
1. The name of the patient to whom the medication was dispensed.
 2. The date that the medication was dispensed.
 3. The name, strength and quantity of the medication.
 4. Direction for taking or administering the medication.

5. The name and address of the physician dispensing the medication. The label required by this section 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.

802 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.

Prescription Guidelines—Controlled Substances

- 900 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:
1. 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.
 2. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
 3. 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.
 4. 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.
 5. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
 6. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photostatically 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:
 - a. 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 section are in addition to, and not in lieu of documentation required in Section 404.

- b. 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 Section 900.6.a above.
- c. 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 Section 900.6.a above.
- d. 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.
7. No more than one (1) controlled substance shall be issued on a single prescription blank.

Prescription Guidelines - All Medications

- 1001 In addition to any other requirements set forth in these regulations 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:
1. 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.
 2. 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 section. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed or electronically transmitted.
 3. 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.

4. If a prescription form which does not contain two signature lines required in Section 1000.3 of this Chapter 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.
5. 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.

6. A prescription shall no longer be valid after the occurrence of any one of the following events:
 - a. Thirty (30) days after the death of the issuing physician.
 - b. 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.
 - c. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
 - d. Immediately after revocation, suspension or surrender of the physician's license.

Freedom of Choice

- 1100 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.

- 1101 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.
- 1102 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.

Other Drugs Having Addiction-forming Liability

- 1200 All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Section 400 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.

Security of Controlled Substances

- 1300 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.
- 1301 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.

Pain Management Clinics

- 1400 The physician owner/operator of the pain management clinic shall register with MSBML. The form to register is attached hereto (Appendix E). 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 clinic. Each clinic requires a separate certificate.
- 1401 A pain management clinic may not operate in the State of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.
- 1402 A pain management clinic may not operate in Mississippi unless the clinic is owned and 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.
 3. Holds a certificate of registration for that pain management clinic.
- 1403 In addition, the owner/operator of a pain management clinic, an employee of the clinic or a person with whom a clinic contracts for services may not:
1. Have been denied, by any jurisdiction, a license 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 license 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; or
 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.
- 1404 A pain management clinic may not be owned wholly or partly by any person who has been convicted of, pled nolo contendere to or received deferred adjudication for:
1. an offense that constitutes a felony; or
 2. an offence that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.
- 1405 Certificates are valid for one year and must be renewed annually with the practitioners 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 has expired.

Violation of Regulations

- 1500 The prescribing, administering or dispensing of any controlled substance in violation of the above rules and regulations 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).
- 1501 The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules and regulations 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).

Effective Date of Regulations

- 1600 The above rules and regulations 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; and as amended March 24, 2011.

Source: *Miss. Code Ann.* §73-43-11 (Rev. 1972)

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 03/25/2011	Name or number of rule(s): 30.II.28.100 - Community-Based Immunization Programs		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is a proposed new regulation which will define who can administer vaccinations in Mississippi.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.28

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

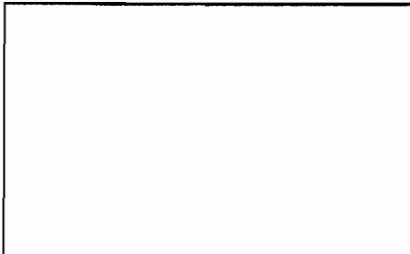
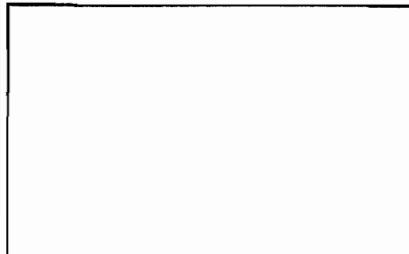
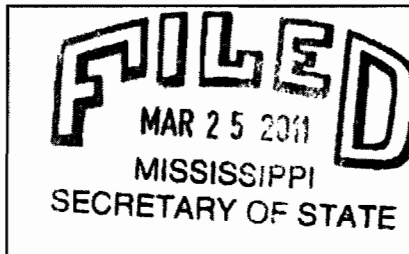
ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately on _____ Other (specify): _____	Action proposed: _____ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed date of adoption: _____ 30 days after filing _____ Other (specify): _____	Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____

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

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP  Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by _____	OFFICIAL FILING STAMP  Accepted for filing by <u>CB-E 17675</u>
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Chapter 28 Community-Based Immunization Programs

Scope

- 100 The administration of vaccinations clearly constitutes the practice of medicine, as defined by Mississippi Code Section 73-25-33, 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.

Definitions

- 200 For the purpose of Chapter 28 only, the following term has the meaning indicated:
1. "Part-time" means a minimum of 20 hours per week.

Position

- 300 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:
1. the vaccinations are administered to the public by a licensed nurse and
 2. are carried out pursuant to state and federal public health immunization programs or other programs which:
 - a. shall be approved in advance by the Board;
 - b. 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,
 - c. a single physician assumes responsibility for the safe conduct of the immunization program.

Adopted March 24, 2011.

Source: *Miss. Code Ann.* §73-43-11 (Rev. 1972)

Mississippi Secretary of State
 700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 03/25/2011	Name or number of rule(s): 30.II.09.400 - Collaboration/Consultation with Nurse Practitioners		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to a current rule which will allow APRNS the ability to continue to practice for a limited time if their collaborative physician is unable to continue in the collaborative relationship due to unforeseen circumstances. The Medical Board will assist the APRN in acquiring physician coverage.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.09

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

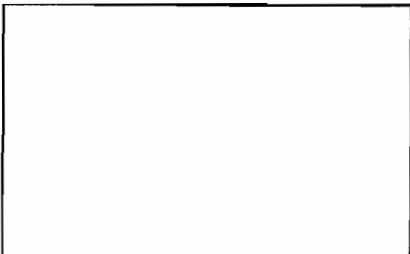
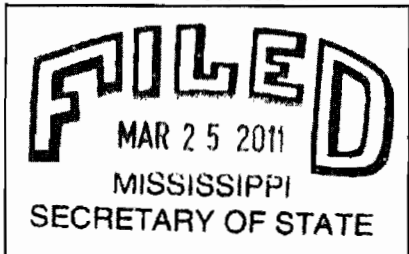
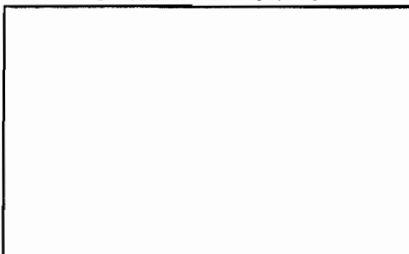
ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately on <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed date of adoption: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Action taken: <input type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP 	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP 	OFFICIAL FILING STAMP 
Accepted for filing by _____	Accepted for filing by <i>CB-E 17676</i>	Accepted for filing by _____

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

Chapter 09 Collaboration/Consultation with Nurse Practitioners

Scope

100 These regulations apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 09 only, the following terms have the meanings indicated:
1. “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.
 2. “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.
 3. “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.
 4. “Collaborating/Consulting Physician” means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.
 5. “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.
 6. “Advanced Practice Registered Nurse” includes all nurse practitioners, certified nurse midwives and certified registered nurse anesthetists.

Board Review

- 300 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.
- 301 The requirement for Board appearance and approval set forth in Section 300 above also applies to any physician collaborating/consulting with a nurse practitioner who later

moves to a free standing clinic under an existing protocol.

- 302 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 Section 300 above shall not be required until the next succeeding renewal date for said certificate as required by the Mississippi State Board of Nursing.
- 303 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 Section 300. 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.
- 304 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:
1. 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.
 2. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewers' names, and dates of review.
 3. 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.

Violation of Regulations

- 400 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulation

- 500 The above rules and regulations pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

Chapter 09 Collaboration/Consultation with Nurse Practitioners

Scope

100 These regulations apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 09 only, the following terms have the meanings indicated:
1. “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.
 2. “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.
 3. “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.
 4. “Collaborating/Consulting Physician” means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.
 5. “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.
 6. “Advanced Practice Registered Nurse” includes all nurse practitioners, certified nurse midwives and certified registered nurse anesthetists.

Board Review

- 300 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.
- 301 The requirement for Board appearance and approval set forth in Section 300 above also applies to any physician collaborating/consulting with a nurse practitioner who later

moves to a free standing clinic under an existing protocol.

- 302 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 Section 300 above shall not be required until the next succeeding renewal date for said certificate as required by the Mississippi State Board of Nursing.
- 303 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 Section 300. 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.
- 304 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:
1. 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.
 2. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewers' names, and dates of review.
 3. 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.

Collaborative/Consultative Relationships

- 400 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), relocation, restriction and/or loss of physician's medical licensure or other action by the Mississippi State Board of Medical Licensure, 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.
- 401 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.

Violation of Regulations

4500 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulation

5600 The above rules and regulations pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

Source: *Miss. Code Ann.* §73-43-11 (Rev.1972)

APRIL 2011

**SPECIAL EXECUTIVE
COMMITTEE**

MEETING

MINUTES

**MINUTES
SPECIAL EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
APRIL 08, 2011**

MEMBERS PRESENT:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary

ALSO PRESENT:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Friday, April 08, 2011, at 5:30 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi to hold a Special Executive Committee meeting.

The meeting was called to order by Dr. Mayo, President. Dr. Mayo welcomed Ella Hardwick, Court Reporter, and Scott Hambleton, M.D., Medical Director, Mississippi Professionals Health Program (MPHP).

**SUDHIR NARAYAN PUJARI, M.D., LAUREL, MISSISSIPPI MEDICAL LICENSE
NUMBER 18149, SURRENDER OF LICENSE**

Dr. Craig briefly discussed a Voluntary Surrender that had been signed by Dr. Pujari. After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to accept Dr. Pujari's Voluntary Surrender. A copy of the Surrender of Medical License is attached hereto and incorporated by reference.

SPECIAL EXECUTIVE COMMITTEE MINUTES

APRIL 08, 2011

Page 2

SANTANU SOM, D.O., PORT GIBSON, MISSISSIPPI MEDICAL LICENSE NUMBER 20149, ADVERSE ACTION REPORT STATEMENT

Dr. Craig briefly discussed an Adverse Action Report that the Board had received from the National Practitioner Data Bank and the statement that was added by Dr. Som on March 28, 2011. After a brief discussion, it was the unanimous decision of the Executive Committee to include the Adverse Action Report in Dr. Som's file to be addressed if and when he should appear back before the Board after completion of the additional surgical training required by the Board. Following additional discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to request that Stan Ingram, Complaint Counsel for Board, correspond with Dr. Som's attorney to express the Board's concerns in the matter.

HEARING IN THE CASE OF JOHN EDWIN WITCHER, M.D., BRANDON, MISSISSIPPI MEDICAL LICENSE NUMBER 14977

Mr. Ingram briefly discussed the reason for the Special Executive Committee meeting today for the hearing of Dr. Witcher. Mr. Ingram advised that Dr. Witcher had been served a Summons and Affidavit and due to the Board's rules and regulations concerning the Rules of Procedure that Dr. Witcher was to have a hearing set within fifteen (15) days of having been served.

Mr. Ingram introduced Dr. Witcher, his brother and sister-in-law, and his pastor. Also, Mr. Ingram advised that Dr. Hambleton, MPHP, was here today to advocate for Dr. Witcher.

Mr. Ingram advised that Dr. Witcher was here today without legal counsel. Ms. O'Neal, Assistant Attorney General, introduced herself to Dr. Witcher and questioned him regarding legal representation and Dr. Witcher stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram addressed the Board and covered a chronological summary and entered several exhibits into the record. Mr. Ingram questioned Dr. Witcher concerning the Summons and Affidavit. Dr. Witcher advised that he had received a copy and that he had reviewed the charges. Mr. Ingram asked Dr. Witcher if he was going to contest any of the charges and Dr. Witcher stated, "no." Mr. Ingram advised Dr. Witcher as to the possible outcome of the hearing and listed potential requirements for a Consent Order and Dr. Witcher stated that he was in agreement.

Dr. Witcher's pastor, Jerry Dillon, with the Pentecostal Church asked if he could address the Board in Dr. Witcher's behalf. Mr. Dillon made several comments concerning how he was working with Dr. Witcher and extended his support.

SPECIAL EXECUTIVE COMMITTEE MINUTES

APRIL 08, 2011

Page 3

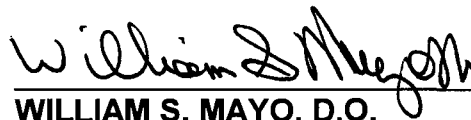
Motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously for the Executive Committee to enter into Executive Session to discuss the matter which could be appealable.

Upon a motion by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously the Executive Committee came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Executive Committee's decision. Dr. Crawford advised that the facts outlined in the Summons and Affidavit were confessed by Dr. Witcher. Dr. Crawford advised that Dr. Witcher's license is indefinitely suspended and that 1) he shall immediately enter into and successfully complete treatment as directed by the Mississippi Professionals Health Program (MPHP); 2) upon completion of treatment, Licensee shall seek and maintain advocacy with the MPHP; 3) any loss of advocacy by the MPHP must be immediately reported to the Board; and 4) after a minimum of one (1) year, Licensee may petition the Board for lifting of the suspension on his license. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:00 p.m.


WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
April 08, 2011

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

SUDHIR NARAYAN PUJARI, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, Sudhir Narayan Pujari, M.D., hereinafter referred to as "Licensee," is the current holder of Medical License Number 18149, issued July 7, 2003, to practice medicine in the State of Mississippi;

WHEREAS, on or about November 27, 2009, Licensee was arrested for DUI, First Offense, Careless Driving and Resisting Arrest by the Laurel Police Department;

WHEREAS, on or about June 25, 2010, in utilizing the Board's physician license web renewal process, Licensee submitted a Renewal Application for License period: July 1, 2010 - June 30, 2011, wherein Licensee answered "NO" to Affidavit Question 2: "From July 1, 2008, to the present, have you entered a plea bargain or have you been arrested, charged, indicted, or convicted for violating any law, including DUI (Do not report minor traffic violations)?"

WHEREAS, on or about March 24, 2011, Licensee was arrested and charged by the Jones County Sheriff's Office with Aggravated Assault, Miss Code Ann., §97-3-7(2)(a) and Burglary, Miss Code Ann., §97-17-23;

WHEREAS, such conduct is in violation of the Mississippi Medical Practice Act, specifically Miss. Code Ann. §73-25-29(8)(d) and (f) as amended, for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board

or take any other action as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid an evidentiary hearing before the Board by voluntarily relinquishing his right to practice medicine in the State of Mississippi;

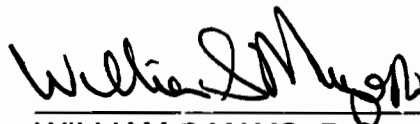
NOW, THEREFORE, Licensee hereby voluntarily surrenders his medical license (Number 18149) to practice medicine in the State of Mississippi. Licensee understands that this is an unconditional surrender, is reportable as disciplinary action to the National Data Bank, and is a public record of the State of Mississippi. In the event Licensee later decides to practice medicine in the State of Mississippi, it will be necessary for him to submit a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

EXECUTED this the 3rd day of March, 2011.



SUDHIR NARAYAN PUJARI, M.D.

ACCEPTED AND APPROVED this the 8th day of April, 2011,
by the Mississippi State Board of Medical Licensure.



WILLIAM S MAYO, D.O.
PRESIDENT

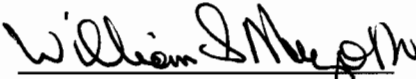
**EXECUTIVE SESSION
SPECIAL EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
APRIL 08, 2011**

AGENDA ITEM: Hearing in the case of John Edwin Witcher, M.D.

In a motion by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously the Executive Committee acknowledged that the facts outlined in the Summons and Affidavit were confessed. Licensee's license are indefinitely suspended and that 1) he shall immediately enter into and successfully complete treatment as directed by the Mississippi Professionals Health Program (MPHP); 2) upon completion of treatment, Licensee shall seek and maintain advocacy with the MPHP; 3) any loss of advocacy by the MPHP must be immediately reported to the Board; and, 4) after a minimum of one (1) year, Licensee may petition the Board for lifting of the suspension on his license.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
S. Randall Easterling, M.D.	x			
William S. Mayo, D.O.	x			
Virginia Crawford, M.D.	x			

With a motion by Dr. Crawford, seconded by Dr. Easterling, the Executive Committee came out of Executive Session.


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JOHN EDWIN WITCHER, M.D.

ORDER

THIS MATTER came on regularly for hearing on April 8, 2011, before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter referred to as the "Board"), pursuant to Title 73, Chapter 25, Miss. Code (1972) Annotated. The Board initiated these proceedings on March 28, 2011, by issuance of a Summons and Order of Temporary Action Pending Hearing against John Edwin Witcher, M.D. (hereinafter referred to as "Licensee"), with attached Affidavit from Thomas Washington, Investigator. The affidavit set forth two counts against Licensee, alleging violations of Miss. Code Ann. Sections 73-25-29(8)(d) and 73-25-83(c) as more fully set out below.

Licensee was present without counsel. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. After being advised of his right to counsel, Licensee waived such rights and elected to proceed. Board members present for all proceedings were William S. Mayo, D.O., President; S. Randall Easterling, M.D.; and Virginia M. Crawford, M.D. Based upon the evidence and testimony presented, the Board renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Licensee admitted to all of the allegations of fact and charges as set forth in the Summons and Affidavit filed herein. Therefore, the facts as set forth in the March 28, 2011,

Affidavit of Thomas Washington are taken as confessed and are incorporated herein by reference.

CONCLUSION OF LAW

Based on the Finding of Facts as enumerated above, Licensee is guilty of Counts One and Two of the Affidavit as filed with the Board. Specifically, Licensee is guilty of having been disciplined by a licensed hospital or medical staff of said hospital as a result of his clinical privileges being summarily suspended by the Medical Administrative Committee of the Laird Hospital, all in violation of Miss. Code Ann., Section 73-25-83; and guilty of unprofessional conduct, which includes, but is not limited to any dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Miss. Code Ann., Section 73-25-29(8)(d) and 73-24-83(a).

ORDER

IT IS THEREFORE, ORDERED that the Medical License of John Edwin Witcher, M.D. is hereby suspended for a minimum of one (1) year;

IT IS FURTHER ORDERED that after expiration of at least one (1) year, Licensee shall have the right, but not the obligation, to petition the Board for reinstatement of his medical license. Licensee must submit documented proof of the following:

1. Licensee shall immediately enter into and successfully complete treatment as directed by the Mississippi Professionals Health Program (hereinafter MPHP).
2. Upon completion of treatment, Licensee shall seek and maintain advocacy with the MPHP.
3. Any loss of advocacy by the MPHP must be immediately reported to the Board.

IT IS FURTHER ORDERED that in the event the Board permits reinstatement of Licensee's medical license, the Board shall have the right to impose on said license any other restriction which the Board, in its sole discretion, shall deem necessary to protect the public.

IT IS FURTHER ORDERED, that Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., Section 73-25-30. Licensee shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date of mailing of the notification.

IT IS FURTHER ORDERED that pursuant to Section 73-25-27, a copy of this Determination and Order shall be sent by registered mail, or personally served upon Licensee. Because Licensee was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 8th day of April, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
WILLIAM S. MAYO, D. O.
PRESIDENT

MAY 2011

**NO
EXECUTIVE COMMITTEE
MEETING
IN MAY
ALL COMBINED INTO
BOARD MEETING
DATED
MAY 12, 2011**

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, May 12, 2011, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary
Larry B. Aycock, M.D., McComb
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
Philip T. Merideth, M.D., J.D., Jackson
Charles D. Miles, M.D., West Point

Also present:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Heather Wagner, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee
Cecil R. Burnham, Jackson, Consumer Health Committee

Not present:

Charles Thomas, Yazoo City, Consumer Health Committee

The meeting was called to order at 9:10 a.m. by Dr. Mayo, President. The invocation was given by Dr. Aycock and the pledge was led by Dr. Merideth. Dr. Mayo welcomed the Court Reporter, Debra Williams, and extended a welcome to all visitors present at the meeting.

PUBLIC COMMENTS

Dr. Mayo opened the floor for public comments. Gayle Harrell, NP-C, President of the Mississippi Nurses Association, addressed the Board and made several comments concerning the Board's regulation on collaboration/consultation with nurse

BOARD MINUTES

May 12, 2011

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practitioners. Dr. Mayo thanked Ms. Harrell for the comments and advised her that the matter will be taken up later in the meeting.

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD MARCH 01, 2011, THROUGH APRIL 30, 2011

Two hundred thirty-two (232) licenses were certified to other entities for the period March 01, 2011, through April 30, 2011. Motion was made by Dr. Merideth, seconded by Dr. Crawford, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD MARCH 01, 2011, THROUGH APRIL 30, 2011

Seventy-five (75) licenses were issued for the period March 01, 2011, through April 30, 2011. Motion was made by Dr. Merideth, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED MARCH 23, 2011, MINUTES OF THE BOARD MEETING DATED MARCH 24, 2011, AND MINUTES OF THE SPECIAL EXECUTIVE COMMITTEE MEETING DATED APRIL 08, 2011

Minutes of the Executive Committee Meeting dated March 23, 2011, Minutes of the Board Meeting dated March 24, 2011, and Minutes of the Special Executive Committee Meeting dated April 08, 2011, were reviewed. Dr. Brunson moved for approval of the minutes as submitted. Dr. Merideth seconded the motion, and it carried unanimously.

Dr. Crawford requested a follow-up to the presentation from Delta Health Alliance / Project Hope that was covered in the Executive Committee Minutes. Dr. Craig advised that a proposal has been drafted but due to the flood issues in the Delta that matter is currently on hold.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Crawford (Chair), Dr. Easterling, Dr. Aycock, Dr. Miles, Dr. Brunson, Mr. Burnham, Mr. Thomas

Dr. Crawford advised that the committee had a meeting this morning and will have more information to follow concerning issues with collaborative practices.

BOARD MINUTES

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Professionals Health Program - Dr. Mayo (Chair), Dr. Merideth, Dr. Chance

Dr. Mayo advised that the committee met this morning to discuss the Memorandum of Understanding (MOU). Dr. Mayo advised that they hope to have the MOU finalized soon.

Rules, Regulation & Legislative - Dr. Easterling (Chair), Dr. Jones, Dr. Mayo, Dr. Chance, Mr. Breland

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

Ethics - Dr. Merideth (Chair), Dr. Crawford, Dr. Jones

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

Telemedicine / EHR - Dr. Aycock (Chair), Dr. Miles, Dr. Brunson

Dr. Aycock stated that most hospitals are in the process of initiating electronic medical records and complying with prescription writing requirements.

PRESENTATION BY FREDA BUSH, M.D., IMMEDIATE PAST CHAIR OF THE FEDERATION OF STATE MEDICAL BOARDS AND A PAST PRESIDENT OF THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

Dr. Bush provided an informative presentation concerning the Maintenance of Licensure (MOL). Dr. Bush stated that the MOL is a process by which licensed physicians are continuing to update and improve practice processes and that the specific requirements would vary across different jurisdictions. Dr. Bush stated that the Federation was seeking pilot states and provided the benefits available. Dr. Bush stated that she hopes that Mississippi will consider being a pilot for the program.

After several questions, Dr. Mayo thanked Dr. Bush for coming today and making the presentation.

HEARING IN THE CASE OF MUKUND K. PATEL, M.D., WATER VALLEY, MISSISSIPPI MEDICAL LICENSE NUMBER 14386

Mr. Ingram introduced Dr. Patel and his attorney, Weaver Gore. Mr. Ingram briefly summarized Dr. Patel's history, made his opening comments and entered several exhibits into the record. Also, Mr. Gore entered several exhibits into the record as well as stating that Dr. Patel was wanting his license reinstated so that he could enter a residency program due to the fact that he has been out of practice for an

BOARD MINUTES

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extended period of time.

Dr. Patel was called to the witness stand and sworn in by the court reporter. Both Mr. Ingram and Mr. Weaver questioned Dr. Patel as to what he is currently doing for work and what he plans to do if the Board approves his request. Dr. Patel advised that he has been offered a residency position at the North Mississippi Medical Center (NMMC) in Tupelo effective July 2012, if the Board approves his request for license reinstatement.

Mr. Ingram advised that Dr. Patel has been in contact with Scott Hambleton, M.D., Medical Director, Mississippi Professionals Health Program (MPHP), and that Dr. Hambleton is here to provide advocacy for Dr. Patel. Also, Mr. Ingram advised that Dr. Patel has already signed a five (5) year contract with MPHP and the contract has all the requested approvals except the Board's. Mr. Ingram advised that Dr. Patel is requesting that the Board allow him to enter a residency program instead of going for an evaluation assessment since he has been out of practice for an extended period of time.

Dr. Hambleton was called to the witness stand and sworn in by the court reporter. Dr. Hambleton advised that MPHP is in support of Dr. Patel's request and that he has been following the requirements requested. Dr. Hambleton stated that he feels that a residency program with a structured environment would be very beneficial to Dr. Patel. Dr. Hambleton requested that the Board consider not limiting Dr. Patel to NMMC only but allow him to apply for other Mississippi residencies.

Dr. Joe Walker and Ms. Martha Ross Thomas were both called to the witness stand and sworn in by the court reporter. Both individuals spoke in support of Dr. Patel's request. Michael Lewis also advised that he was here today to speak on behalf of Dr. Patel's request.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to discuss Dr. Patel's request which could be appealable.

Upon a motion by Dr. Easterling, seconded by Dr. Jones, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board unanimously voted to recommend that Dr. Patel's license be reinstated with restrictions to only practice within a residency program in Mississippi. Also, upon completion of his residency program, Dr. Patel must appear before the Board for consideration of restrictions being lifted. Dr. Crawford stated that the current restriction is reportable to the National Practitioner Data Bank and that Dr. Patel must maintain his contract with

BOARD MINUTES

May 12, 2011

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MPHP.

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

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

PUBLIC COMMENTS

Dr. Mayo advised that Tim Alford, M.D., President of the Mississippi State Medical Association (MSMA) had arrived late but had requested to make a public statement concerning MSMA's comments regarding the adoption of the regulation concerning collaborative/consultation with APRNs.

Dr. Alford addressed the Board and advised that he apologized for arriving late but that he, Beth Embry, and Lynn Evans wanted to publicly address the Board concerning the definition of an "unforeseen circumstance." Dr. Alford advised that any change in the Board's regulations that would authorize an APRN to remain in practice for a temporary period without a collaborative agreement in place would be contrary to Miss. Code Ann. 73-15-5 and would further be contrary to the policies adopted by the MSMA. Dr. Alford advised that MSMA is of the opinion that the authorization of interim APRN practices should be limited to physician changes in status caused by a "catastrophic" type event such as a severe physician disability (mental or physical) or death, not situations precipitated by physician conduct or changes in status which render it merely inconvenient for a physician to provide adequate supervision. Also, Dr. Alford discussed the concerns MSMA has with the 90 or 180 days that APRNs could work without a collaborative physician.

HEARING IN THE CASE OF HARRY GENE HUNT, M.D., TAMPA, FL, MISSISSIPPI MEDICAL LICENSE NUMBER 15726

Mr. Ingram introduced Dr. Hunt and his attorney, Jeff Stewart. Mr. Ingram advised that the Board had summoned Dr. Hunt for an appearance after disciplinary action was taken against his medical privileges at Marion General Hospital in Columbia, MS.

Mr. Ingram advised that in lieu of a hearing, Dr. Hunt has signed a proposed Consent Order. Mr. Ingram advised that Dr. Hunt was here today to answer questions and request the Board's approval of the proposed Order.

BOARD MINUTES

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After several questions from the Board members, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that the Board enter into Executive Session to discuss Dr. Hunt's Order, a matter which could be appealable.

Upon a motion by Dr. Merideth, seconded by Dr. Easterling, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board unanimously agreed to amend the proposed Consent Order to change certain probationary terms and conditions.

The Board's amended changes were presented to Dr. Hunt and Mr. Stewart. After their review, they advised the Board that they had discussed the matter and that Dr. Hunt agreed to sign the Consent Order as proposed with the amended changes. Mr. Ingram added that he had talked with Dr. Hunt and Mr. Stewart and that Dr. Hunt has agreed not to practice until he meets with MPHP and again appears before the Board.

REQUEST LIMITED INSTITUTIONAL MEDICAL LICENSE RENEWALS FOR RUBEN CRUZ, M.D., AND PACIFICO DIZON ONGKINGCO, JR., M.D., EAST MISSISSIPPI STATE HOSPITAL, MERIDIAN

Dr. Craig covered the requests for an extension on the limited institutional licenses from Dr. Cruz and Dr. Ongkingco. Dr. Craig advised that the Board has been extending their limited institutional licenses on an annual basis even though both have passed the five (5) year limitation as stated in the Board's rules and regulations.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to extend their limited institutional licenses for another year.

Following the motion, Dr. Merideth advised that the Board has been more than lenient and that he is of the opinion that quality of care issues are involved and that the physicians need to apply for a permanent license.

Following a brief discussion, motion was made by Dr. Merideth to amend the motion to advise Mr. Carlisle, Director of East Mississippi State Hospital, Dr. Cruz and Dr. Ongkingco that the Board has renewed their limited institutional license for the next twelve (12) months, but that the Board will not extend the licenses any further than the current licensure cycle and they should plan accordingly. Dr. Aycock seconded the amended motion and it carried unanimously.

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**REQUEST FOR REINSTATEMENT BY CALVIN RAMSEY, M.D., LEXINGTON,
MISSISSIPPI MEDICAL LICENSE NUMBER 07905**

Mr. Ingram introduced Dr. Ramsey and his attorney, David Chisolm. Mr. Ingram advised that Dr. Ramsey had requested to appear before the Board to request reinstatement of his Mississippi medical license.

Mr. Ingram addressed the Board and briefly summarized and discussed the Consent Order dated May 1, 2009, that indefinitely suspended Dr. Ramsey's medical license due to being found guilty of two (2) counts of filing a false tax return. Mr. Ingram provided opening comments and entered several exhibits into the record. Mr. Ingram also addressed Miss. Code Ann. 73-25-32 that addresses suspension or revocation of a physician's license as well as reinstatement.

Mr. Chisolm addressed the Board and made opening comments as well as having several exhibits entered into the record.

Dr. Ramsey was called to the witness stand and was sworn in by the court reporter. Dr. Ramsey addressed the Board and asked that he be allowed to go back to work in his underserved area in the Delta.

Dr. Ramsey answered several questions from the Board members.

Upon a motion by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously, the Board went into Executive Session to discuss Dr. Ramsey's request which could be appealable.

Upon a motion by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board in a eight (8) vote for and one (1) member abstaining voted to take the matter under advisement as it appears not all of the CME hours required from the May 2009 Consent Order were approved hours. The CME hours are to be analyzed and then the Board will determine the number of Category I CME hours needed. This information is to be communicated with Dr. Ramsey. The Board requested that Dr. Ramsey withdraw his petition and that the request will be reconsidered when all CME is complete. Dr. Ramsey is to return again to seek his return to practice request.

THE BOARD RECESSED AT 12:55 P.M. FOR LUNCH

**THE BOARD RECONVENED AT 1:30 P.M. WHEN DR. MAYO CALLED THE
MEETING BACK IN SESSION**

BOARD MINUTES

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MR. BURNHAM EXITED THE MEETING AT 1:30 P.M.

**HEARING IN THE CASE OF JAY PAUL JACOBS, II, M.D., BOCA RATON, FL,
MISSISSIPPI MEDICAL LICENSE NUMBER 16142**

Mr. Ingram requested that Thomas Washington check to see if Dr. Jacobs was in the building. Mr. Washington advised that he had not signed in at the receptionist's desk and that he could not locate him in the building.

Mr. Ingram addressed the Board and covered the Summons and Affidavit from the March 2011 meeting as well as the Continuance granted at the March 2011 meeting. Also, Mr. Ingram placed several exhibits into the record.

Mr. Washington was called to the witness stand and was sworn in by the court reporter. Mr. Washington answered questions concerning the Summons and Affidavit and information concerning action taken by the state of Florida on Dr. Jacobs' Florida medical license when he voluntarily relinquished his license to practice in the state of Florida.

Mr. Ingram advised the Board that Florida's actions provided grounds by which the Mississippi Board could take action on Dr. Jacobs' Mississippi medical license.

Motion was made by Dr. Easterling, seconded by Dr. Chance, and carried unanimously that the Board enter into Executive Session to discuss Dr. Jacobs' matter which could be appealable.

Upon a motion by Dr. Easterling, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board finds that since Dr. Jacobs voluntarily relinquished his Florida medical license that this Board indefinitely suspends his Mississippi medical license.

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

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

**REQUEST APPROVAL OF CONSENT ORDER, DUANE LAMONT RUSSELL, M.D.,
SMYRNA, GA, MISSISSIPPI MEDICAL LICENSE NUMBER 17375**

Dr. Craig advised that Dr. Russell was not here today since he is currently in treatment in Georgia but that he had signed and returned a Consent Order that the

BOARD MINUTES

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Board had sent him. Dr. Craig briefly discussed the Consent Order that indefinitely suspends Dr. Russell's Mississippi medical license with the suspension stayed after six (6) months, subject to probationary terms and conditions.

Motion was made by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously to accept the Consent Order as written.

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

DISCUSS MARK MITCHELL LEVAUGHN, M.D., BRANDON, MISSISSIPPI MEDICAL LICENSE NUMBER 21488, LETTER OF CONCERN

Dr. Craig briefly covered a Letter of Concern that had been sent to the State's new Chief Medical Examiner. Dr. Craig advised that he had talked with Dr. LeVaughn but that in completing his initial licensure application he failed to include information concerning an arrest in 2007.

Following a brief discussion, motion was made by Dr. Merideth, seconded by Dr. Jones, and carried unanimously to enter into Executive Session to discuss a matter which could be appealable.

Upon a motion by Dr. Brunson, seconded by Dr. Miles, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board voted to invite Dr. LeVaughn to the July 6, 2011, Executive Committee Meeting to explain his failure to disclose information concerning his arrest on his initial application and to explain the arrest.

FINAL ADOPTION OF AMENDMENT TO REGULATION CONCERNING COLLABORATION/CONSULTATION WITH NURSE PRACTITIONERS (CHAPTER 09) COMMENT RECEIVED

Dr. Easterling briefly discussed the changes to Chapter 09 of the Board's rules and regulations and provided background for several changes. After a brief discussion, and advice from legal counsel the Board decided not to final adopt the regulation today, but to propose amended changes to be final adopted at the July Board meeting due to substantial changes in the regulation.

After further discussion, Dr. Mayo noted that the Committee made the motion to go back to the original language and to bring the proposed amended regulation back to the Board in July for final adoption after the comment period. Dr. Mayo advised that no second was needed. Dr. Aycock, Dr. Crawford, and Dr. Merideth opposes the motion,

BOARD MINUTES

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but the motion passed with the other Board members voting in favor.

A copy of the proposed amended regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

DISCUSS REPORT FROM THE MAINTENANCE OF LICENSURE IMPLEMENTATION GROUP

Dr. Mayo briefly covered the report from the Maintenance of Licensure and the presentation from Dr. Freda Bush earlier today. Dr. Mayo discussed the possibility of Mississippi notifying the Federation expressing interest in being in the pilot program that will begin June 1.

After a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Mayo, and carried to express the Board's interest in the Maintenance of Licensure pilot program to the Federation of State Medical Boards. Dr. Easterling was the only Board member voting against the motion.

DISCUSS HYDROCOLONIC THERAPY

Dr. Craig advised that the Board had been contacted as to whether hydrocolonic therapy was considered the practice of medicine. Dr. Craig advised that it is his understanding that the Louisiana Board of Medical Examiners has declared hydrocolonic therapy as the practice of medicine.

After a brief discussion, motion was made by Dr. Aycock that the Board consider hydrocolonic therapy of any kind be considered medical therapy and the practice of medicine. Dr. Merideth seconded the motion and it carried unanimously. The Board requested that Dr. Craig draft rules and regulations to be discussed concerning this matter at the July meeting.

OTHER BUSINESS

APPROVAL OF FUNDS DESIGNATED TO THE MISSISSIPPI PROFESSIONALS HEALTH PROGRAM (MPHP)

Dr. Craig briefly discussed the contributions that the Board makes in support of the Mississippi Professionals Health Program. Dr. Craig advised that the Board needs to approve the additional monies requested for this year.

BOARD MINUTES

May 12, 2011

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After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Miles and carried unanimously for the Board to contribute \$250,000.00 for the upcoming year starting July 2011 to MPHP to include budgets for 2012 and 2013.

DISCUSS CHARLES MARTIN WEBBER, M.D., RIDGELAND, MISSISSIPPI MEDICAL LICENSE NUMBER 08445

Dr. Craig advised that Dr. Webber had appeared before the Examining Committee on April 18, 2011, and their recommendation was that he go for a comprehensive evaluation at a Board approved facility capable of treating chemical dependency.

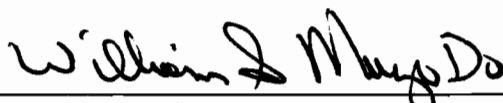
Mr. Ingram covered the Mississippi Disabled Physicians Law for the Board members. Mr. Ingram provided the Board with copies of the recommendation from the Examining Committee, the actual evaluation from Pine Grove, and information from Dr. Webber's attorney with attachments concerning a second opinion.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to discuss a matter which may be appealable.

Upon a motion by Dr. Brunson, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board unanimously agreed that Dr. Webber receive a second opinion from a Board approved facility within the next thirty (30) days.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:55 p.m., with the next scheduled meeting for Thursday, July 7, 2011.



**WILLIAM S. MAYO, D.O.
PRESIDENT**

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
May 12, 2011

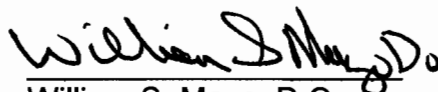
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011**

AGENDA ITEM: X. Hearing in the case of Mukund K. Patel, M.D.

In a motion by Dr. Aycock, seconded by Dr. Brunson, and carried unanimously the Board recommends that Dr. Patel be licensed with restrictions to only practice within a residency program in Mississippi. Upon completion of the residency program, Dr. Patel must appear before the Board for consideration of lifting restrictions. This restriction is reportable to the National Practitioners Data Bank. Dr. Patel must maintain his contract with MPHP.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Easterling, seconded by Dr. Jones, the Board came out of Executive Session.


William S. Mayo, D.O.
President

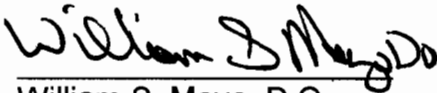
EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011

AGENDA ITEM: XI. Hearing in the case of Harry Gene Hunt, M.D.

After discussing with Stan Ingram, Complaint Counsel for the Board, in a motion made by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously, the Board agreed to amend the proposed Consent Order to change certain probationary terms and conditions.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Merideth, seconded by Dr. Easterling, the Board came out of Executive Session.



William S. Mayo, D.O.
President

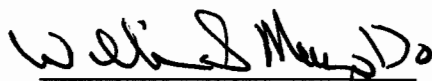
EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011

AGENDA ITEM: XIV. Request for reinstatement by Calvin Ramsey, M.D.

In a motion by Dr. Miles, seconded by Dr. Crawford, in a vote of eight (8) for, and one (1) abstaining, the Board voted to take the matter under advisement. It appears that Dr. Ramsey is short on the 100 CME hours required in the previous Order. The CME hours will be analyzed and the Board will determine the number of Category I CME hours needed and this information will be communicated to Dr. Ramsey. This request will be reconsidered when the CME is complete. Dr. Ramsey is to withdraw the current petition and is to return to request his return to practice.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.				X
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Crawford, seconded by Dr. Aycock, the Board came out of Executive Session.



William S. Mayo, D.O.
President

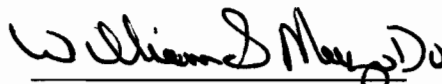
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011**

AGENDA ITEM: XIII. Hearing in the case of Jay Paul Jacobs, II, M.D.

In a motion made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously the Board finds that Dr. Jacobs voluntarily relinquished his Florida license. This Board indefinitely suspends Dr. Jacobs Mississippi medical license.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Easterling, seconded by Dr. Chance, the Board came out of Executive Session.


William S. Mayo, D.O.
President

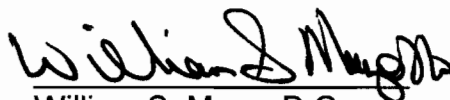
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011**

AGENDA ITEM: Discussion of Mark Mitchell LeVaughn, Letter of Concern

In a motion made by Dr. Merideth, seconded by Dr. Jones, in a vote of seven (7) for, two (2) against, the Board voted to invite Dr. LeVaughn to the Executive Committee to explain his failure to disclose information concerning his arrest on his initial application and to explain his arrest.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycok, M.D.		X		
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.		X		
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Brunson, seconded by Dr. Miles, the Board came out of Executive Session.


William S. Mayo, D.O.
President

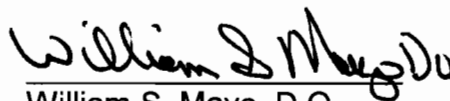
EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 12, 2011

AGENDA ITEM: Discussion of Charles Martin Webber, M.D.

In a motion made by Dr. Brunson, seconded by Dr. Merideth, and carried unanimously the Board voted that Dr. Webber is to receive a second opinion from a Board approved facility within the next thirty (30) days.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Brunson, seconded by Dr. Chance, the Board came out of Executive Session.


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MUKUND KANU PATEL, M.D.

ORDER OF LICENSURE REINSTATEMENT

THIS MATTER came on regularly for consideration on May 12, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of Mukund Kanu Patel, M.D. (hereinafter "Licensee"), seeking reinstatement of his license to practice medicine in the State of Mississippi. By virtue of that certain Determination and Order rendered April 20, 2000, Licensee's certificate to practice medicine in the state of Mississippi was indefinitely suspended due to multiple grounds; the most prevalent being multiple relapses of chemical dependency.

In view of the fact that Licensee has not practiced medicine since April, 2000, Licensee has agreed, in lieu of a competency assessment, to limit his practice to the confines of a residency training program in the state of Mississippi. During the hearing, Scott Hambleton, M.D., Medical Director of the Mississippi Professionals Health Program ("MPHP"), provided verification of Licensee's sobriety and recent execution of a Recovery Contract Agreement with the MPHP. The Board, after hearing all testimony and considering all evidence, finds Licensee's request to be well taken.

IT IS HEREBY ORDERED, that Licensee's certificate to practice medicine in the state of Mississippi is hereby reinstated, subject to the following restrictions, to-wit:

1. Licensee's practice shall be strictly limited to the confines of a residency training program in the state of Mississippi. Under no circumstances shall Licensee practice at any other location or outside the confines of such residency program.
2. Licensee shall enter into a monitoring agreement and comply with all requirements imposed by the Mississippi Professionals Health Program.

IT IS FURTHER ORDERED that pursuant to Section 73-25-27, a copy of this Order shall be sent by registered mail, or personally served upon Mukund Kanu Patel, M.D. Because Dr. Patel was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 12th day of May, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S Mayo, D.O.
WILLIAM S. MAYO, D.O.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

HARRY GENE HUNT, M.D.

CONSENT ORDER

WHEREAS, Harry Gene Hunt, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 15726, for the practice of medicine in the State of Mississippi;

WHEREAS, the Investigative Staff of the Mississippi State Board of Medical Licensure has conducted a comprehensive investigation into the medical practice of Licensee and has documented evidence indicating that Licensee has committed ethical violations in regards to being disciplined by a licensed hospital or medical staff of said hospital, and is guilty of unprofessional conduct likely to deceive, defraud or harm the public;

WHEREAS, on October 27, 2010, Marion General Hospital in Columbia, Mississippi, notified the Board that in accordance with Marion General Hospital's Medical Staff Bylaws, Section 8.2-1, the staff appointment status of Licensee had been summarily suspended effective immediately as the result of Licensee coming to the hospital and physically attacking a female employee of the hospital on October 23, 2010;

WHEREAS, in utilizing the Board's physician license web renewal process, Licensee submitted a Renewal Application for License period: July 1, 2010-June 30, 2011, wherein Licensee did electronically submit his practice address in the State of Mississippi as 1560 Sumrall Road, Columbia, Mississippi, 39429. Subsequently, the Investigative Division received information indicating that since October 24, 2010, Licensee has not practiced at 1560 Sumrall Road in Columbia. Licensee now practices at 101 Rouselle Place, Suite C,

Ocean Springs, Mississippi 39564. Licensee failed to inform the Board in writing of his change of address until on or about April 6, 2011;

WHEREAS, such conduct is in violation of the Mississippi Medical Practice Act, specifically Miss. Code Ann., Sections 73-25-29(8)(d), 73-25-29(13), and Section 73-25-83(a),73-25-83(c), as amended, for which the Mississippi State Board of Medical Licensure may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board or take any other action as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with the consent of Licensee as signified by his joinder herein, does hereby suspend Licensee's Certificate (No. 15726) to practice medicine in the State of Mississippi for a term of at least one (1) year from the date of approval of this Order by the Board (hereinafter "Effective Date") with the suspension stayed after a minimum of three (3) months from the Effective Date, subject to the following probationary terms and conditions;

1. Licensee shall immediately contact the Mississippi Professionals Health Program (MPHP) and submit to a comprehensive multi-disciplinary evaluation at a treatment facility approved in advance by the MPHP. Licensee shall execute such releases so as to permit the Board and MPHP to receive all evaluation results and permit the treatment facility to obtain any and all information from the Board and other collateral sources deemed necessary to

conduct the evaluation. Licensee shall comply with all treatment recommendations of the treatment facility as directed by the MPHP.

2. Licensee shall attend courses on Medical Ethics, Boundaries, and Anger Management at a Board approved program. Following completion of said courses, Licensee shall submit to the Board documented proof of successful completion.
3. Licensee shall report his arrest(s) on each renewal of licensure.
4. Licensee shall disclose this Consent Order to any and all employers, whether it is a clinic, hospital or staffing company, with the understanding that any boundary violation shall be immediately reported to the Board. Further, any boundary violation when confirmed by the Board shall result in an automatic suspension of licensure without hearing for an indefinite period of time, notwithstanding any probationary period enumerated herein.
5. Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., Section 73-25-30. Licensee shall be advised of the total assessment by separate written notification, and shall tender to the Board a certified check or money order within forty (40) days from the date the assessment is mailed to Licensee.
6. This Consent Order does not address any pending or future criminal charges against Licensee. In the event Licensee pleads guilty to, or is later convicted of any criminal violation of the law, including violations arising out of conduct by Licensee as enumerated in this Consent Order, the Board reserves the right to initiate further disciplinary proceedings based upon said guilty plea or criminal conviction.

After expiration of three (3) months from the Effective Date of this Consent Order, Licensee shall have the right to petition the Board for authorization to return to the practice of medicine, provided Licensee has completed the evaluation as required by Item 1 above, and is in compliance with all treatment recommendations. The petition will be heard at the first regularly scheduled meeting of the Board after a written receipt of the petition has been received. Thereafter, Licensee shall have the right to petition the Mississippi State Board of Medical Licensure for a release of any or all of the above enumerated conditions after expiration of twelve (12) months from the Effective Date hereof. Thereafter, any right to petition the Board for reconsideration shall be at reasonable intervals, but not less than twelve (12) months from the date of last appearance.

This Consent Order shall be subject to approval by the Mississippi State Board of Medical Licensure. If the Board fails to approve the Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or materials concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation or consideration of the resolution of the proceedings.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the State of Mississippi, and is reportable to the National Practitioner Data Bank. Licensee further acknowledges that the Board shall provide a copy of this Order to,

among others, the U.S. Drug Enforcement Administration, and the Board makes no representation as to actions, if any, which the U.S. Drug Enforcement Administration may take in response to this Order.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann., Sections 73-25-27 and 73-25-83, to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Harry Gene Hunt, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby placing the above enumerated conditions/restrictions on his license to practice medicine in the State of Mississippi.

Executed this the 12th day of May, 2011.

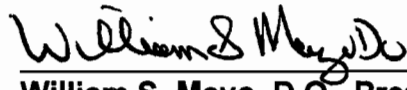


Witness



Harry Gene Hunt, M.D.

ACCEPTED AND APPROVED, this the 12th day of May, 2011, by the Mississippi State Board of Medical Licensure.



William S. Mayo, D.O., President
Mississippi State Board of
Medical Licensure

among others, the U.S. Drug Enforcement Administration, and the Board makes no representation as to actions, if any, which the U.S. Drug Enforcement Administration may take in response to this Order.


Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann., Sections 73-25-27 and 73-25-83, to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Harry Gene Hunt, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby placing the above enumerated conditions/restrictions on his license to practice medicine in the State of Mississippi.

Executed this the 12th day of May, 2011.

Witness


Harry Gene Hunt, M.D.

ACCEPTED AND APPROVED, this the 12th day of May, 2011, by the Mississippi State Board of Medical Licensure.


William S. Mayo, D.O., President
Mississippi State Board of
Medical Licensure

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JAY PAUL JACOBS, II, M. D.

ORDER

THIS MATTER came on regularly for hearing on May 12, 2011, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. The Board initiated these proceedings on March 24, 2011, by issuance of a Summons and Affidavit against Jay Paul Jacobs, II, M.D. (hereinafter "Licensee") setting forth two (2) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83. The matter was continued until this date.

Licensee failed to appear as summoned. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Heather Wagner, Assistant Attorney General. Board members present for all proceedings were William S. Mayo, D.O., President; S. Randall Easterling, M.D.; Larry B. Aycock, M.D., William B. Jones, M.D., Claude D. Brunson, M.D., Rickey L. Chance, D.O., Virginia M. Crawford, M.D., Philip T. Merideth, M.D., J.D., and Charles D. Miles, M.D.

FINDINGS OF FACT

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact:

1. That Licensee is the current holder of Mississippi Medical License Number 16142, to practice medicine in the State of Mississippi. Said License is current until June 30, 2011.
2. That on February 8, 2011, Summons and Affidavit was duly issued by the Board commanding Licensee to appear before the Board on March 24, 2011, and defend the charges as noted above. On March 24, 2011, Licensee failed to appear and the matter was continued

until this date. Pursuant to Miss. Code Ann. Section 73-25-27, notice of process was duly served on Licensee by certified mail-return receipt requested, using the Boca Raton, Florida address noted in the Board's licensure file for Licensee.

3. That between March 23, 2010, and September 16, 2010, the Florida Board of Medicine conducted an investigation of Licensee's medical practice. This investigation was predicated upon the receipt of a Case Summary Form and complaint form from the Palm Beach Sheriff's Office's Narcotic Agency in which it is alleged that on March 16, 2010, during a traffic stop, agents of the Palm Beach County Sheriff's Office discovered that Licensee may have improperly prescribed controlled substances to seven patients from Kentucky for cash without performing a valid medical examination. The seven patients reported that they were seen by Licensee at his residence in Wellington, Florida. When Licensee was arrested by the Palm Beach County Sheriff's Office on September 1, 2010, he agreed to voluntarily relinquish his Florida medical license.

4. Pursuant to the signed "VOLUNTARY RELINQUISHMENT of LICENSE", dated September 1, 2010, Licensee voluntarily relinquished his license to practice medicine in the State of Florida, and agreed to never again to apply for licensure as a physician in the State of Florida. Licensee's conduct constituted violations of Florida Statutes 458.331.

5. By Final Order, dated December 16, 2010, the State of Florida Department of Health, Board of Medicine, accepted Licensee's VOLUNTARY RELINQUISHMENT of his Florida license (ME0083993) to practice medicine in the State of Florida. Licensee's voluntary relinquishment of his license and the Florida Board's acceptance of the same constitute disciplinary action by another state or jurisdiction.

CONCLUSIONS OF LAW

Based on the Finding of Facts as enumerated above, Licensee is guilty of Counts one and two of the Affidavit as filed with the Board. Specifically, Licensee is guilty of surrendering his license

or having his license, permit or certificate to practice medicine in another state or jurisdiction suspended, revoked other restriction imposed thereon by such licensing authority, all in violation of Miss. Code Ann., Section 73 25 29(9), as amended; and guilty of unprofessional conduct, which includes, but is not limited to any dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Miss. Code Ann., §73-25-29(8)(d) and 73-24-83(a).

ORDER

IT IS THEREFORE, ORDERED that Mississippi Medical License Number 16142, issued to Jay Paul Jacobs, II, M.D. to practice medicine in the State of Mississippi is hereby indefinitely suspended.

IT IS FURTHER ORDERED, that Licensee shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., Section 73-25-30. Licensee shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date of mailing of the notification.

IT IS FURTHER ORDERED, that pursuant to Section 73-25-27, a copy of this Order shall be sent by registered mail, or personally served upon Jay Paul Jacobs, II, M.D.

SO ORDERED, this the 12th day of May, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
**WILLIAM S. MAYO, D.O.
PRESIDENT**

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE
OF
DUANE LAMONT RUSSELL, M.D.

CONSENT ORDER

WHEREAS, Duane Lamont Russell, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 17375 for the practice of medicine in the State of Mississippi;

WHEREAS, the Investigative Staff of the Mississippi State Board of Medical Licensure (hereinafter "Board"), has conducted a comprehensive investigation into the medical practice of Licensee and has documented evidence indicating that Licensee has committed ethical violations in regards to the use of controlled substances, and is guilty of unprofessional conduct likely to deceive, defraud or harm the public;

WHEREAS, on or about January 27, 2011, Licensee was arrested by the Hinds County, Mississippi, Sheriff Department and charged with Possession of a Controlled Substance to wit: Crack Cocaine, pursuant to Miss. Code Ann., Section 41-29-139.

WHEREAS, in utilizing the Board's physician license web renewal process, Licensee submitted a Renewal Application for License period: July 1, 2010 through June 30, 2011, wherein Licensee answered "no" to Affidavit Question 2: *"From July 1, 2008, to the present, have you entered a plea bargain or have you been arrested, charged, indicted, or convicted for violating any law, including DUI (Do not report minor traffic violations)?"* Subsequently, the Investigative Division received information indicating that Licensee was arrested for Probation Violation in Fulton County, Georgia, on August 19, 2008, and that Licensee was arrested on July 10, 2009, by the Baltimore County, Maryland, Police Department for Possession of Drugs and Possession of Drug Paraphernalia.

WHEREAS, such conduct is in violation of the Mississippi Medical Practice Act, specifically Miss Code Ann. Sections 73-25-29(1), (8)(d), (13), and Section 73-25-83(a), as amended, for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board or take any other action as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Board and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with the consent of Licensee as signified by his joinder herein, does hereby indefinitely suspend Licensee's Certificate (No. 17375) to practice medicine in the State of Mississippi with the suspension stayed after six (6) months, subject to the following probationary terms and conditions;

1. Licensee shall submit to and complete a comprehensive evaluation conducted by the Mississippi Professionals Health Program (MPHP), under the direction of MPHP's Medical Director. Licensee shall bear all costs of said evaluation. Licensee will execute such releases so as to authorize MPHP to provide to the Board a complete report of said evaluation, and likewise allow the Board to provide to the evaluators any and all information concerning investigation of Licensee's medical practice.
2. Licensee shall immediately obtain affiliation with MPHP. Licensee shall comply with all affiliation requirements of MPHP, its Medical Director or the Mississippi Professionals Health Committee (MPHC). Licensee hereby authorizes the Board, its Director or Investigative Staff, to contact and communicate with MPHP, MPHC, or any agent or representative of said organizations as to all aspects of his affiliation and/or recovery. Reciprocally, Licensee hereby authorizes MPHP and

MPHC, its agents, representatives or employees to fully communicate with the Board as to all aspects of his affiliation and/or recovery.

3. After completion of the six (6) month suspension period and completion of the evaluation and recommended treatment, and securing MPHP advocacy pursuant to paragraphs 2 and 3 above, Licensee has the option, but not the obligation, to petition the Board for authorization to return to the practice of medicine in the State of Mississippi. Notwithstanding, Licensee shall not practice in the State of Mississippi under any circumstances until such time as Licensee has appeared before the Board and gained approval of a written Plan of Practice. The Board reserves the right to incorporate into the Plan of Practice any and all restrictions deemed necessary to protect the public, including, but not limited to continuing medical education and periodic surveillance.
4. Licensee shall surrender all privileges to handle and prescribe controlled substances in Schedules II, IIN, III, IIIN, IV and V, or any drug hereafter placed in said Schedules. As a result, Licensee shall not be permitted to order, manufacture, distribute, possess, dispense, administer or prescribe any controlled substances in said Schedules until such time as he is again properly registered with the U.S. Drug Enforcement Administration with prior written approval from the Board. Licensee shall execute such forms and documents required by the U.S. Drug Enforcement Administration to accomplish surrender of his controlled substances privileges in the above enumerated Schedules.
5. Licensee shall successfully complete the course entitled, "Physician Education Program in Clinical, Legal and Ethical Issues in Prescribing Abusable Drugs," sponsored by the University of South Florida, or a course of equivalent content

and duration approved by the Board. Following completion of said course, Licensee shall submit to the Board documented proof of successful completion.

6. Within one (1) year of acceptance of this Consent Order, Licensee shall obtain forty (40) hours of Continuing Medical Education (CME) approved by the American Medical Association in the area of Family Medicine with emphasis on the use of controlled substances. Following the completion of each course, licensee shall submit to the Board documentary proof of successful completion.
7. Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann. Section 73-25-30. Licensee shall be advised of the total assessment by separate written notification, and shall tender to the Board a certified check or money order within forty (40) days from the date the assessment is mailed to Licensee.
8. This Consent Order does not address any pending or future criminal charges against Licensee. In the event Licensee pleads guilty to, or is later convicted of any criminal violation of the law, including violations arising out of conduct by Licensee as enumerated in this Consent Order, the Board reserves the right to initiate further disciplinary proceedings based upon said guilty plea or criminal conviction.

This Consent Order shall be subject to approval by the Mississippi State Board of Medical Licensure. If the Board fails to approve the Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or materials concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent

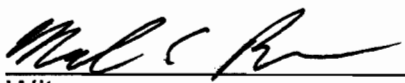
Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in any hearing(s) or other resolution of the proceedings.

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

Licensee shall have the right to petition the Mississippi State Board of Medical Licensure for return to practice pursuant to paragraph (3) above. Thereafter, any right to petition the Board for reconsideration shall be at reasonable intervals, but not less than twelve (12) months from the date of last appearance.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann., Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Duane Lamont Russell, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby placing the above enumerated conditions/restrictions on his license to practice medicine in the State of Mississippi.

Executed this the 31 day of March, 2011.



Witness



Duane Lamont Russell, M.D.

ACCEPTED AND APPROVED, this the 12th day of May, 2011
by the Mississippi State Board of Medical Licensure.

William S. Mayo
William S. Mayo, D.O., President
Mississippi State Board of
Medical Licensure

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 05/13/2011	Name or number of rule(s): 30.II.09.400 - Collaboration/Consultation with Nurse Practitioners		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: _____

This is an amendment to a previously filed proposed filing of a current rule which will allow APRNS the ability to continue to practice for a limited time if their collaborative physician is unable to continue in the collaborative relationship due to unforeseen circumstances. The Medical Board will assist the APRN in acquiring physician coverage.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.II.09

ORAL PROCEEDING:

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

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately on <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed date of adoption: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Action taken: <input type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by _____	Accepted for filing by <u>CB11750E</u>	Accepted for filing by _____

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

Chapter 09 Collaboration/Consultation with Nurse Practitioners

Scope

100 These regulations apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 09 only, the following terms have the meanings indicated:
1. “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.
 2. “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.
 3. “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.
 4. “Collaborating/Consulting Physician” means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.
 5. “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.
 6. “Advanced Practice Registered Nurse” includes all nurse practitioners, certified nurse midwives and certified registered nurse anesthetists.

Board Review

- 300 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.
- 301 The requirement for Board appearance and approval set forth in Section 300 above also applies to any physician collaborating/consulting with a nurse practitioner who later

moves to a free standing clinic under an existing protocol.

- 302 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 Section 300 above shall not be required until the next succeeding renewal date for said certificate as required by the Mississippi State Board of Nursing.
- 303 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 Section 300. 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.
- 304 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:
1. 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.
 2. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewers' names, and dates of review.
 3. 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.

Violation of Regulations

- 400 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulation

- 500 The above rules and regulations pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

Chapter 09 Collaboration/Consultation with Nurse Practitioners

Scope

- 100 These regulations apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

Definitions

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1. “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.
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 3. “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.
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Board Review

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 2. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewers' names, and dates of review.
 3. 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.

Collaborative/Consultative Relationships

- 400 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, restriction and/or loss of physician's medical licensure or other action by the Mississippi State Board of Medical Licensure, 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.
- 401 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.

Violation of Regulations

4500 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulation

5600 The above rules and regulations pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

Source: *Miss. Code Ann.* §73-43-11 (Rev.1972)

JULY 2011

**MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 06, 2011**

MEMBERS PRESENT:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary

ALSO PRESENT:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Thomas Washington, Bureau Director, Investigative Division
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Mickey Boyette, Investigator, Investigative Division
Ruby Litton, RN, Compliance Nurse
Sherry H. Pilgrim, Staff Officer

NOT PRESENT:

Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, July 06, 2011, at 1:10 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi

SANTANU SOM, D.O., PORT GIBSON, MISSISSIPPI MEDICAL LICENSE NUMBER 20149, UPDATE

Dr. Craig provided an update on Dr. Som and discussed a rebuttal statement that the Board had received concerning the National Practitioner Data Bank report sent on Dr. Som in 2010. Dr. Craig advised that "Do Not Renew" had been checked in the physician's tracking system until Dr. Som advises the Board of his intentions. Dr. Craig stated that Dr. Som left his last fellowship early and has not completed his residency. Dr. Som states that he wants to go into a critical care fellowship with occasional emergency room practice in Port Gibson, MS.

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SAMUEL C. OKOYE, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 13321, SUBPOENA REQUEST

Dr. Craig presented those facts necessary to make a determination of reasonable cause pursuant to Miss. Code Ann §73-25-27 for the Investigative Division to request information from Central Mississippi Medical Center concerning Dr. Okoye's privileges.

After further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that reasonable cause did exist and granted approval for the Investigative Division to issue the subpoena to obtain and copy the necessary records.

TOMAS RAYMUNDO FLORES, M.D., BAY ST LOUIS, MISSISSIPPI MEDICAL LICENSE NUMBER 07565, SURRENDER OF MEDICAL LICENSE

For informational purposes only, Dr. Craig advised that Dr. Flores had come to the Board's attention when two (2) high dollar malpractice cases were received. Dr. Craig advised that Mr. Washington, Bureau Director, Investigative Division, had gone and visited Dr. Flores and discovered that he has not practiced in over two (2) years. Dr. Craig advised that Dr. Flores has signed a non-reportable Surrender of his Mississippi medical license.

DISCUSS JOHN M. ARIAS, M.D., COEUR D' ALENE, ID, MISSISSIPPI MEDICAL LICENSE NUMBER 19130, COLORADO MEDICAL BOARD ACTION TAKEN

Dr. Craig discussed a Letter of Admonition that the Colorado Medical Board had sent Dr. Arias concerning a missed subarachnoid hemorrhage from an aneurysm on one of Dr. Arias' patients.

After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to issue Dr. Arias a non-reportable Letter of Concern to be placed in his permanent licensure file.

UPDATE ON DAVID BERRY, M.D., FLOWOOD, MISSISSIPPI MEDICAL LICENSE NUMBER 20138

For informational purposes only, Dr. Craig advised that the Board had received a letter from Guy Farmer, M.D., providing an update on David Berry, M.D. After a brief discussion, the Executive Committee unanimously agreed to request that Dr. Farmer continue to monitor Dr. Berry for an additional six (6) months, with reports sent to the Board every three (3) months.

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UPDATE ON FRANK EVANS, D.P.M., GULFPORT, MISSISSIPPI MEDICAL LICENSE NUMBER 80028

For informational purposes only, Dr. Craig advised that the Board had received a letter from Dr. Parran, Medical Director, Case Western Reserve University School of Medicine, concerning courses taken by Dr. Evans. Dr. Craig advised that Dr. Evans appeared before the Executive Committee in March 2011, and taking the courses was part of the Board's decision.

DISCUSS STEPHEN EUGENE MASSEY, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 16007

Dr. Craig discussed a letter and a report of investigation concerning an inspection by Jonathan Dalton, Investigator, on Radiant Reflections Spa and Weight Loss Clinic that the Board had sent to evaluate the practice of Dr. Massey.

After discussing the matter with Mr. Dalton, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that Mr. Dalton re-visit Dr. Massey to insure all the issues have been corrected.

QUALITY ASSURANCE UPDATES/REVIEWS

Dr. Craig discussed the review where Ms. Litton had made an on-site visit at Community Health Clinic in Forest, Ms., on May 4, 2011. After a brief discussion of the concerns identified during the visit, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that Dr. Lee be invited to appear before the Executive Committee to discuss and address the matter, as well as requesting a copy of an admit order by Ruth Gaddis, NP.

Dr. Craig also discussed the on-site visit with Dr. Stanford Allen Owen at the Center for Health Management in Gulfport, Ms., on May 17, 2011. After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that Dr. Owen be notified that he needs to cease and desist until he appears before Dr. Craig and/or the Executive Committee concerning a free standing clinic that has not been approved due to mileage.

Also, Dr. Craig discussed the on-site visit with Dr. Robert Franklin Cooper, III, primary collaborative physician for Ms. Kymberly Van Every, APRN, at the Allcare Mississippi/Family/Urgent Medical Clinic in Oxford, Ms. Dr. Craig discussed an ad that Ms. Every's clinic was seeking patients for Botox consultation/procedures. After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that Dr. Cooper be invited to appear before the Executive Committee

EXECUTIVE COMMITTEE MINUTES

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concerning his relationship with the APRN and the use of Botox at Ms. Every's clinic.

DISCUSS ELIMINATING LICENSURE REFERENCE LETTERS

Dr. Craig briefly covered and advised that most states were eliminating the reference letters from the licensure process. After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to eliminate requesting licensure reference letters.

Dr. Craig also discussed the licensure requirement that photos have to be taken within sixty (60) days. Dr. Craig stated that the problem arises on the limited institutional licenses (LIL). After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that for LIL's only, if we currently have a photo on file that we can accept that photo without requiring and updated photo for the permanent licensure application.

UPDATE ON HYDROCOLONIC THERAPY

Dr. Craig briefly discussed the responses from the ExecNet and stated that it seems that most states do not consider hydrocolonic therapy the practice of medicine.

REQUEST FROM KENNETH KNIGHT, D/B/A AXCESS MEDICAL CLINIC, CONCERNING THE BOARD'S RULES AND REGULATION PERTAINING TO PAIN MANAGEMENT CLINICS

Dr. Craig advised that Mr. Knight owns a pain management clinic in Picayune and that Mr. Knight is not a physician. Dr. Craig advised that Mr. Knight is from Louisiana and when Louisiana passed a law similar to Mississippi's regulation that Mr. Knight had been grandfathered in and he was requesting the same from Mississippi. Dr. Craig advised that Mr. Knight has filed suit in the Federal Court seeking to enjoin the Board from enforcement of the new regulation. Pending a hearing on the matter, the attorneys recommended that the Board place in abeyance any enforcement of the regulation. Dr. Craig added that this matter is currently being managed by the Attorney General's Office.

Dr. Craig advised also that we do not have jurisdiction over hospitals so we need to amend our rules and regulation to address this issue.

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PERSONAL APPEARANCE BY DON A. GIBSON, M.D., RICHLAND, MISSISSIPPI MEDICAL LICENSE NUMBER 07980

Dr. Craig advised that Dr. Gibson had been invited to the Executive Committee meeting to discuss concerns with a collaborating Advanced Practice Registered Nurse (APRN) at a weight loss clinic. Dr. Craig stated that the APRN was allowed by the clinics collaborative physicians to dispense a controlled substance and give injections of Human Chorionic Gonadotropin (HCG) for weight loss when the drug was not an FDA approved weight loss medication.

Dr. Gibson joined the meeting and was not represented by legal counsel. Dr. Gibson had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Gibson addressed the Executive Committee and explained how he became involved with the clinic. Dr. Gibson stated that Dr. Katrina Babcock owns the clinic but stated that she primarily practices in California and that many states were much more liberal than Mississippi.

After a brief discussion about the APRN dispensing packages of Phentermine, as well as giving HCG, the Executive Committee thanked Dr. Gibson for appearing and advised that they would discuss the matter and get back with him on their decision.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously that the Executive Committee enter into Executive Session to discuss possible disciplinary action concerning Dr. Gibson.

Upon a motion by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously the Executive Committee came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on their decision. Dr. Crawford advised that per Dr. Gibson's own admission he was not adequately informed about the nature of the collaborative weight loss practice. If Dr. Gibson chooses to continue in the collaborative relationship he must fully comply with the Board's rules and regulations concerning chart reviews, quality improvement meetings, and use only FDA approved drugs for weight loss. Dr. Crawford advised that the Board encourages the practice of evidence based medicine and that Dr. Gibson is to receive a non-public Letter of Concern addressing the above items.

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PERSONAL APPEARANCE BY MARK MITCHELL LEVAUGHN, M.D., BRANDON, MISSISSIPPI MEDICAL LICENSE NUMBER 21488

Dr. Craig advised that Dr. LeVaughn was discussed at the May 12, 2011, Board meeting and that the decision was to invite him to the Executive Committee meeting to explain his failure to disclose information concerning his arrest on his initial application as well as explain the arrest.

Dr. LeVaughn joined the meeting and was not represented by legal counsel. Dr. LeVaughn had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. LeVaughn addressed the Executive Committee and answered several questions concerning his application and the DUI arrest. Dr. LeVaughn stated that he had interpreted the question differently and that was why he answered "no".

Dr. Mayo thanked Dr. LeVaughn for appearing and advised him that the Executive Committee would discuss the matter and advise him of their decision.

After a brief discussion, the Executive Committee unanimously agreed that no further action in the matter is necessary.

PERSONAL APPEARANCE BY KIANDOKHT PARTOVI, M.D., SOUTHAVEN, MISSISSIPPI MEDICAL LICENSE NUMBER 18636

Dr. Craig advised that Dr. Partovi had appeared before the Executive Committee in January and that she had been required to go to The Center for Personalized Education for Physicians (CPEP) in Colorado for an evaluation. Dr. Craig advised that initially Dr. Partovi had been issued a Summons and Affidavit to appear before the Full Board because she had decided that she didn't want to release the report to the Board. Since that time, Dr. Partovi has given authorization for the Board to receive a copy of the evaluation. Dr. Craig advised that overall the evaluation was favorable with only a deficiency in her ECG interpretation. Dr. Craig recommended that the Board allow Dr. Partovi to contact Shirley Schlessinger, M.D., at the University of Mississippi Medical Center (UMC) to receive an ECG evaluation and needed interpretation training.

Dr. Partovi joined the meeting and was not represented by legal counsel. Dr. Partovi had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

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Dr. Partovi answered several questions from the Executive Committee. After a brief discussion, the Executive Committee unanimously agreed that Dr. Partovi needs to contact Shirley Schlessinger, M.D., at UMC to inquire about additional ECG interpretation training. The Executive Committee also requested that Dr. Partovi request that Dr. Schlessinger provide the Board with a written report on her training.

PERSONAL APPEARANCE BY HILDON H. SESSUMS, JR., M.D., VICKSBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 09182

Dr. Craig advised that Dr. Sessums appeared before the Executive Committee last year due to problems with his APRN collaboration. Dr. Craig advised that Dr. Sessums had requested to appear before the Executive Committee to request that he be allowed to resume the collaborate practice with his nurse practitioner.

Dr. Sessums joined the meeting and was represented by David Sessums, legal counsel. Dr. Sessums had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Sessums answered several questions from members of the Executive Committee. It was noted that last year and again this year that Dr. Sessums passed the June 30 deadline for renewing his license. Dr. Sessums admitted that he had practiced medicine without a license on Tuesday (7/5/2011) prior to when he renewed late that afternoon. Also, several questions were asked pertaining to the protocol between Dr. Sessums and his APRN.

Dr. Mayo thanked Dr. Sessums for appearing and advised him that the Board would discuss his request and advise their decision.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried that the Executive Committee enter into Executive Session to discuss possible disciplinary action concerning Dr. Sessums.

Upon a motion by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously the Executive Committee came out of Executive Session at which time Dr. Mayo requested that Dr. Crawford report on the decision. Dr. Crawford advised that the provisions of the APRN protocol be approved by Dr. Craig. If the protocol is approved then Dr. Sessums may resume collaborative agreement with the APRN. The Board is requesting quarterly Quality Assurance reports for a full year. Also, Dr. Sessums will be issued a non-public Letter of Concern about his practicing medicine without a license. It is the intent of the Board to seek disciplinary action if Dr. Sessums practices medicine without a license in the future.

EXECUTIVE COMMITTEE MINUTES

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PERSONAL APPEARANCE BY CALVIN RAMSEY, M.D., LEXINGTON, MISSISSIPPI MEDICAL LICENSE NUMBER 07905

Dr. Craig advised that the Board had received a letter from Dr. Ramsey's attorney, Earnestine Alexander, requesting to appear to discuss additional CME hours and reinstatement of Dr. Ramsey's medical license.

Dr. Ramsey joined the meeting and was represented by Earnestine Alexander, legal counsel. Dr. Ramsey had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Ramsey addressed the Executive Committee and responded to several questions concerning the CME hours that he had submitted to the Board. After a brief discussion, Dr. Mayo thanked them for appearing and advised that Dr. Ramsey would be notified of the Board's decision after the Full Board meeting on Thursday.

Following a brief discussion concerning the original Consent Order that was prepared, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that the Executive Committee enter into Executive Session to discuss possible disciplinary action concerning Dr. Ramsey.

Upon a motion by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously the Executive Committee came out of Executive Session at which time Dr. Mayo requested that Dr. Crawford report on the decision. Dr. Crawford advised that the Executive Committee unanimously voted to allow Dr. Ramsey to return to the practice of medicine due to the specific reason that it was the Board's intent to permit return while still on probation, and that his crime was unrelated to the practice of medicine.

OTHER BUSINESS

RAY A HARRON, M.D., LICENSE NUMBER 14223

For informational purposes only, Dr. Craig advised that the Board had received and Order and Opinion of the Court after Dr. Harron had filed an appeal with the Chancey Court of the First Judicial District of Hinds County. Dr. Craig advised that the Final Order was remanded.

After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling and carried unanimously that in reference to the decision of the Chancery Court of the First Judicial District of Hinds County, Cause No. G-2009-1725-W/4 that Dr. Harron's attorney will be contacted and offered a Consent Order or be offered another hearing before the Full Board should he refuse to accept the Consent Order.

EXECUTIVE COMMITTEE MINUTES

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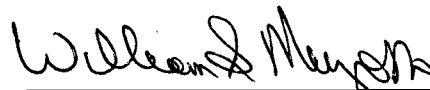
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REVIEW OF JULY 07, 2011, BOARD AGENDA

Dr. Craig briefly reviewed the agenda for tomorrow's meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:25 p.m.



WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
July 06, 2011

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, Don A. Gibson, M.D. have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

___ with legal counsel present (name of counsel: _____)

___ without legal counsel present

EXECUTED, this the 6th day of July, 2011.

Witness: Sherry Hilgerson

Don A. Gibson

LICENSEE
NAME PRINTED

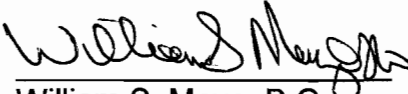
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 06, 2011**

AGENDA ITEM: Possible disciplinary action for Don A. Gibson, M.D.

In a motion by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously the Executive Committee voted that per Dr. Gibson's own admission he was not adequately informed about the nature of the collaborative weight loss practice. If Dr. Gibson chooses to continue he must comply fully: Quality Assurance - chart reviews and submit quarterly reports to the Executive Committee; Section 502 - cannot use controlled or legend drugs (would include B12, lipo B, and chromium) that are not FDA approved for weight loss. The Board encourages the practice of evidence based medicine.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
S. Randall Easterling, M.D.	X			
William S. Mayo, D.O.	X			
Virginia Crawford, M.D.	X			

With a motion by Dr. Crawford, seconded by Dr. Easterling, the Executive Committee came out of Executive Session.



William S. Mayo, D.O.
President

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

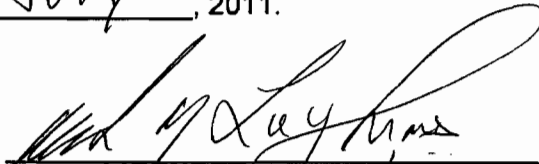
I, Mark M. LeVaughn, M.D. have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 6th day of July, 2011.



LICENSEE

Witness: Jannah White

MARK M. LeVaughn

NAME PRINTED

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, Kiandokht Partovi, M.D. have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

___ with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 6th day of July, 2011.

Witness: Rosie Wood

Partovi

LICENSEE
Kian Partovi

NAME PRINTED

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, Hildon H. Sessums, Jr. M.D. have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: David Sessums)

without legal counsel present

EXECUTED, this the 6 day of July, 2011.

Hildon H Sessums Jr

LICENSEE

Witness

David Sessums

Hildon H Sessums Jr

NAME PRINTED

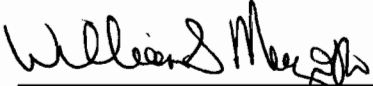
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 06, 2011**

AGENDA ITEM: Possible disciplinary action for Hildon H. Sessums, M.D.

In a motion by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously the Executive Committee voted that Dr. Sessums' provision of APRN protocol be approved by Dr. Craig. If the protocol is approved then Dr. Sessums may resume collaborative agreement with the APRN. The Board requests quarterly Quality Assurance reports for a full year. A non-public Letter of Concern concerning practicing medicine without a license to be issued. It is the intent of the Board to seek disciplinary action if Dr. Sessums practices medicine without a license again.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
S. Randall Easterling, M.D.	X			
William S. Mayo, D.O.	X			
Virginia Crawford, M.D.	X			

With a motion by Dr. Easterling, seconded by Dr. Crawford, the Executive Committee came out of Executive Session.



William S. Mayo, D.O.
President

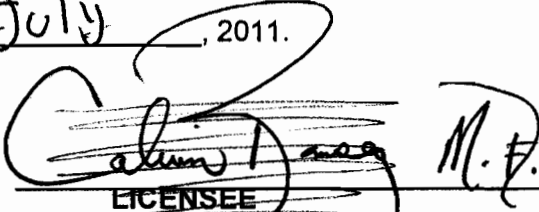
**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, Calvin Ramsey, M.D. have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: Ernestine Alexander)
 without legal counsel present

EXECUTED, this the 6th day of July, 2011.



LICENSEE

Witness: Ernestine Alexander Calvin Ramsey
NAME PRINTED

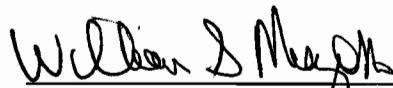
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 06, 2011**

AGENDA ITEM: Possible disciplinary action for Calvin Ramsey, M.D.

In a motion by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously the Executive Committee voted to allow Dr. Ramsey to return to practice due to specific reason that his Consent Order allowed him to return to the Board while still on probation and that his crime was unrelated to the practice of medicine.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
S. Randall Easterling, M.D.	X			
William S. Mayo, D.O.	X			
Virginia Crawford, M.D.	X			

With a motion by Dr. Crawford, seconded by Dr. Easterling, the Executive Committee came out of Executive Session.



William S. Mayo, D.O.
President



BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 07, 2011

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, July 07, 2011, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary
Larry B. Aycock, M.D., McComb
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
Philip T. Merideth, M.D., J.D., Jackson
Charles D. Miles, M.D., West Point

Also present:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Thomas Washington, Bureau Director, Investigative Division
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Cecil R. Burnham, Jackson, Consumer Health Committee
Charles Thomas, Yazoo City, Consumer Health Committee

Not present:

Rhonda Freeman, Bureau Director, Licensure Division
Wesley Breland, Hattiesburg, Consumer Health Committee

The meeting was called to order at 9:05 a.m. by Dr. Mayo, President. The invocation was given by Dr. Miles and the pledge was led by Dr. Chance. Dr. Mayo welcomed the Court Reporter, Ella Hardwick, and extended a welcome to all visitors present at the meeting.

Dr. Mayo opened the floor for opening remarks and/or announcements but there were none.

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

BOARD MINUTES

July 07, 2011

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APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD MAY 01, 2011, THROUGH MAY 31, 2011

Eighty-four (84) licenses were certified to other entities for the period May 01, 2011, through May 31, 2011. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD MAY 01, 2011, THROUGH MAY 31, 2011

Thirty-nine (39) licenses were issued for the period May 01, 2011, through May 31, 2011. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE BOARD MEETING DATED MAY 12, 2011

Minutes of the Board meeting dated May 12, 2011, were reviewed. Dr. Merideth moved for approval of the minutes as submitted. Dr. Chance seconded the motion, and it carried unanimously.

REPORT OF JULY 06, 2011, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered the appearances and issues that were discussed/approved by the Executive Committee on July 06, 2011. Information pertaining to the Executive Committee decisions is included in the Executive Committee Minutes dated July 06, 2011.

Dr. Mayo stated that the Executive Committee moves that their actions/decisions be approved. Dr. Merideth had several questions concerning the action taken by the Executive Committee on Calvin Ramsey, M.D. After a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Merideth, and carried unanimously that the Board ratify the actions with the exception of the item concerning Dr. Ramsey.

Motion was made by Dr. Merideth, seconded by Dr. Aycock, and carried unanimously that the Board enter into Executive Session to discuss a possible disciplinary matter concerning Dr. Ramsey.

Upon a motion by Dr. Brunson, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board voted seven (7) for, one (1) against, and one (1) abstaining to accept the

BOARD MINUTES

July 07, 2011

Page 3

recommendation of the Executive Committee that Dr. Ramsey be permitted to return to the practice of medicine, as was the original intent of the Consent Order. A copy of the Order Removing Restrictions and Authorizing Return to Practice is attached hereto and incorporated by reference.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Crawford (Chair), Dr. Easterling, Dr. Aycock, Dr. Miles, Dr. Brunson, Mr. Burnham, Mr. Thomas

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

Professionals Health Program - Dr. Mayo (Chair), Dr. Merideth, Dr. Chance

Dr. Mayo advised that the Memorandum of Understanding had been signed.

Rules, Regulation & Legislative - Dr. Easterling (Chair), Dr. Jones, Dr. Mayo, Dr. Chance, Mr. Breland

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

Ethics - Dr. Merideth (Chair), Dr. Crawford, Dr. Jones

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

Telemedicine / EHR - Dr. Aycock (Chair), Dr. Miles, Dr. Brunson

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

PRESENTATION BY GREGORY E. SKIPPER, M.D., MEDICAL DIRECTOR, MEDICAL ETHICS AND PROFESSIONALISM WITH PROFESSIONAL BOUNDARIES, INC., MONTGOMERY, AL

Dr. Mayo introduced Dr. Gregory Skipper, Medical Director, Medical Ethics and Professionalism with Professional Boundaries, Inc. Dr. Skipper gave an informative presentation of the courses that are offered through their program.

After the presentation there were several questions from the Board members. Dr. Mayo thanked Dr. Skipper for coming today and providing the Board with their course information.

BOARD MINUTES

July 07, 2011

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KIANDOKHT PARTOVI, M.D., SOUTHAVEN, MISSISSIPPI MEDICAL LICENSE NUMBER 18636

Dr. Mayo advised that the Board had issued a Summons and Affidavit for Dr. Partovi to appear before the Full Board in a hearing. Dr. Mayo advised that Dr. Partovi had resolved the matter and was advised to make a personal appearance before the Executive Committee. Dr. Mayo advised that the Board needs a motion to dismiss the charges without prejudice on Dr. Partovi.

Motion was made by Dr. Crawford, seconded by Dr. Brunson, and carried unanimously to enter an order dismissing the charges without prejudice on Dr. Partovi. A copy of the Order of Dismissal Without Prejudice is attached hereto and incorporated by reference.

HEARING IN THE CASE OF CHARLES MARTIN WEBBER, M.D., BRANDON, MISSISSIPPI MEDICAL LICENSE NUMBER 08445

Dr. Craig advised that the Board had issued a Summons and Order of Temporary Suspension to Dr. Webber to appear before the Board in a hearing on July 7, 2011. Dr. Craig advised that on July 5, 2011, the Board received a letter from Dr. Webber advising his retirement due to health reasons.

Following a discussion relative to a physician retiring or surrendering, there were several motions made and amended concerning the matter. Mr. Ingram provided the Board with two (2) suggested options that were discussed at length. After further discussion, motion was made by Dr. Merideth, seconded by Dr. Crawford, and carried unanimously to offer Dr. Webber a Voluntary Surrender, and if he agrees and signs the Voluntary Surrender then the matter is closed. In the event Dr. Webber does not wish to sign the Surrender, then the Summary of Suspension remains in effect and continued until such time as Dr. Webber appears for a hearing before the Board. Also, the Board agreed that, if Dr. Webber does not voluntarily surrender his license, he will be issued a Summons to appear before the Board at the next meeting on September 22, 2011.

THE BOARD RECESSED AT 10:45 A.M. AND RETURNED AT 10:55 A.M.

HEARING IN THE CASE OF PATRICIA LYNN DUDLEY, M.D., MERIDIAN, MISSISSIPPI MEDICAL LICENSE NUMBER 09961

Dr. Craig advised the Board that Dr. Dudley was not here today as she has decided to enter treatment at Acumen.

BOARD MINUTES

July 07, 2011

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Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that the suspension on Dr. Dudley's license remain in effect and be continued until such time as she has completed treatment from Acumen; the Board has received Acumen's evaluation; Dr. Dudley seeks advocacy from MPHP; and makes the request to appear before the Board for a hearing.

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

HEARING IN THE CASE OF KATRINA SPEARS BABCOCK, D.O., WOODLAND HILLS, CA, MISSISSIPPI MEDICAL LICENSE NUMBER 19602

Mr. Ingram advised that Dr. Babcock was not present today and through her attorney was requesting a Continuance. Mr. Ingram introduced Seth Hall, an attorney with the Simmons Law Group, representing Dr. Babcock. Mr. Hall advised that Doug Mercier will be the attorney for Dr. Babcock but that he has a previous deposition today and that he was here requesting the Continuance and a extension of time to file an answer to the charges in the pending matter. Mr. Hall advised that Mr. Mercier was requesting an extension to answer the charges until July 18, 2011.

Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Jones, and carried unanimously to grant the Continuance and allow the requested extension until July 18, 2011, to respond on the charges.

Mr. Hall presented Dr. Mayo with a proposed Order for Continuance and Extension of Time to Answer. A copy of same is attached hereto and incorporated by reference.

HEARING IN THE CASE OF THOMAS FRAZEE FLEISCHHAUER, M.D., BATESVILLE, MISSISSIPPI MEDICAL LICENSE NUMBER 19602

Mr. Ingram introduced Dr. Fleischhauer and advised that he was here today without legal counsel. Ms. O'Neal questioned Dr. Fleischhauer regarding legal representation and Dr. Fleischhauer stated that he wanted to waive his right to an attorney and address the Board. Mr. Ingram advised that he had talked with Dr. Fleischhauer and covered the exhibits. Mr. Ingram advised that Dr. Fleischhauer is now requesting a continuance until he can possibly seek legal counsel. Dr. Fleischhauer stated that he did not have all the material prepared and was requesting a continuance. Mr. Ingram advised that he was prepared for the hearing, but that it was the Board's decision to proceed or grant the continuance. Dr. Easterling asked Dr. Fleischhauer that if the Board agrees to grant the continuance will he voluntary agree to not prescribe, administer or dispense controlled substances in any schedule until after the hearing.

BOARD MINUTES

July 07, 2011

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After a brief discussion concerning Dr. Fleischhauer's position in the Emergency Room and the need there, motion was made to enter into Executive Session by Dr. Aycock to discuss a possible disciplinary matter. Dr. Easterling seconded the motion and carried unanimously.

Upon a motion by Dr. Miles, seconded by Dr. Easterling, the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board unanimously voted to grant the Continuance with the condition that Dr. Fleischhauer not prescribe any scheduled drugs other than orders for administration or dispensation in an emergency room or hospital setting. A copy of the Order of Continuance is attached hereto and incorporated by reference.

There was further discussion concerning Dr. Fleischhauer providing refills on prescriptions and the Board agreed that Mr. Ingram contact the Board of Pharmacy and advise them that there should be no refills on Dr. Fleischhauer's prescriptions until the matter is resolved.

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

FINAL ADOPTION OF AMENDMENT TO REGULATION CONCERNING COLLABORATION/CONSULTATION WITH NURSE PRACTITIONERS (CHAPTER 09)

Dr. Craig briefly discussed the regulation that is submitted for final adoption. Cathy Williamson, from the Board of Nursing, made the comment that our regulation does not mirror the Board of Nursing.

After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Jones, and carried unanimously of the Board's intent to final adopt the amendment to the regulation concerning collaboration/consultation with nurse practitioners. A copy of the amended regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

LETTER RECEIVED FROM MISSISSIPPI PROFESSIONALS HEALTH PROGRAM

For informational purposes only, Dr. Craig briefly discussed a letter the Board had received from Dr. Hambleton providing an update on MPHP.

BOARD MINUTES

July 07, 2011

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NEXT SCHEDULED MEETING

Dr. Mayo discussed possible dates for the next Board meeting. After a brief discussion, the next scheduled meeting will be held on September 22, 2011, with the Executive Committee meeting scheduled for September 21, 2011.

THE BOARD RECESSED FOR LUNCH AT 11:45 A.M. AND RETURNED AT 1:05 P.M.

MR. BURNHAM DID NOT RETURN AFTER LUNCH

**HEARING IN THE CASE OF JAMES BENJAMIN BURKE, M.D., PEARL, MISSISSIPPI
MEDICAL LICENSE NUMBER 20064**

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Burke and his attorney, Joel Howell. Mr. Ingram then made opening comments, briefly summarized Dr. Burke's background with the Board, outlined the Consent Order that he is currently under, and entered several exhibits into the record.

Mr. Howell made his opening comments and also entered several exhibits into the record. Mr. Howell acknowledged that all the information was true; however, he stated that Dr. Burke recognized he had a problem and had voluntarily sought treatment at Acumen.

Scott Hambleton, M.D., Medical Director of the Mississippi Professionals Health Program (MPHP) was called to the witness stand and sworn in by the court reporter. Mr. Ingram questioned Dr. Hambleton, followed by Mr. Howell. Mr. Ingram then redirected with several additional questions. Several members of the Board then questioned Dr. Hambleton before Mr. Howell redirected.

Mr. Howell called Dr. Burke to the witness stand and he was sworn in by the court reporter. Mr. Howell questioned Dr. Burke which was followed by questioning from Mr. Ingram. Also, several Board members questioned Dr. Burke.

Both Mr. Ingram and Mr. Howell made closing remarks before a motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to discuss a possible disciplinary matter.

The Board came out of Executive Session at which time Dr. Mayo advised that during the Board's deliberations it was decided that Board members wanted to ask Dr. Burke and Dr. Hambleton additional questions. Dr. Mayo advised both physicians that they were still under oath.

BOARD MINUTES

July 07, 2011

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Dr. Burke was questioned by several of the Board members concerning previous problems he had when he had an Alabama medical license and information provided in the Acumen evaluation.

Also, Dr. Hambleton was again questioned by several of the Board members.

Dr. Mayo advised that the Board has a witness that they wished to call. Dr. Mayo called Charles Thomas, one of the Board's Consumer Health Committee members, to the witness stand. Mr. Ingram and Mr. Howell expressed concern and requested opportunity to interview the witness, which was done. After interviewing the witness, it was the recommendation of both Mr. Ingram and Mr. Howell that the Board proceed without the testimony of Mr. Thomas.

Motion was made by Dr. Miles, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to further discuss the possible disciplinary matter. Before the Board went into Executive Session, Mr. Ingram conducted, without objection, voir dire of the Board members concerning information provided by Mr. Thomas.

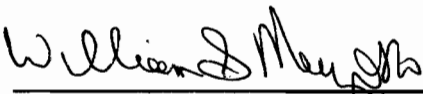
Upon a motion by Dr. Miles, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that based on findings of fact that Dr. Burke was found guilty of Counts I and II; therefore, the Board suspends Dr. Burke's license until he: 1) completes full treatment from Acumen; 2) maintains a Recovery Contract with MPHP after he completes treatment; 3) then he will be allowed to appear before the Board for consideration of the lifting of this suspension. A copy of the Board's Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

ADJOURNMENT

There being no further business, the meeting adjourned at 5:25 p.m., with the next scheduled meeting for Thursday, September 22, 2011.

BOARD MINUTES
July 07, 2011
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WILLIAM S. MAYO, D.O.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
July 07, 2011


**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 07, 2011**

AGENDA ITEM: Discuss matter from Executive Committee on Calvin Ramsey, M.D.

In a motion by Dr. Aycock, seconded by Dr. Brunson, the Board in a seven (7) vote for, one (1) vote against, and one (1) vote abstaining voted to accept the recommendation of the Executive Committee that Dr. Ramsey be permitted to return to the practice of medicine, as was the original intent of the Consent Order.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.				X
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.		X		
Charles D. Miles, M.D.	X			

With a motion by Dr. Brunson, seconded by Dr. Chance, the Board came out of Executive Session.



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CALVIN RAMSEY, M.D.

**ORDER REMOVING RESTRICTIONS AND
AUTHORIZING RETURN TO PRACTICE**

THIS MATTER came on regularly for consideration on July 7, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of Calvin Ramsey, M.D. (hereinafter "Licensee"), seeking authorization to return to the practice medicine in the State of Mississippi. By virtue of that certain Consent Order dated May 1, 2009, Licensee's certificate to practice medicine in the State of Mississippi was indefinitely suspended effective May 4, 2009, with the right to petition for return to practice upon release from incarceration, subject to certain conditions as hereinafter specified.

Evidence has now been submitted establishing that Licensee has been released from incarceration and has completed all requisite continuing medical education as of the date of his appearance. After hearing all testimony and considering all evidence, the Board finds Licensee's request to be well taken.

IT IS HEREBY ORDERED, that Licensee's certificate to practice medicine in the state of Mississippi is hereby reinstated and Licensee is hereby authorized to return to the practice of medicine, subject to the terms and conditions as specified in the May 1, 2009 Consent Order, including but not limited to the following:

1. Licensee shall strictly comply with all of the terms and conditions of his Federal probation.

2. During each year of Federal Probation, Licensee shall obtain at least fifty (50) hours of Category 1 Continuing Medical Education (CME) approved by the American Medical Association on medical ethics. Following completion of each course, Licensee shall submit to the Board documentary proof of successful completion.

IT IS FURTHER ORDERED that pursuant to Section 73-25-27, a copy of this Order shall be sent by registered mail, or personally served upon Calvin Ramsey, M.D. Because Dr. Ramsey was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 7th day of July, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
WILLIAM S. MAYO, D. O.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE OF

KIANDOKHT PARTOVI, M.D.

ORDER OF DISMISSAL WITHOUT PREJUDICE

WHEREAS, there is now pending before the Mississippi State Board of Medical Licensure (hereinafter "Board), that certain Summons and Affidavit against Kiandokht Partovi, M.D. (hereinafter "Licensee"); said summons served on Licensee on May 31, 2011;

WHEREAS, the Board is advised that Licensee has complied with all requests of the Board and has satisfied those deficiencies noted in the aforementioned Summons and Affidavit.

IT IS THEREFORE ORDERED, that the Summons and Affidavit against Licensee, dated May 31, 2011, is hereby dismissed without prejudice.

SO ORDERED, this the 7th day of July, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
WILLIAM S. MAYO, D. O., PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

PATRICIA LYNN DUDLEY, M.D.

ORDER OF CONTINUING PROHIBITION

THIS MATTER came on regularly for hearing on July 7, 2011, before the Mississippi State Board of Medical Licensure, in response to those certain allegations charged pursuant to the Mississippi Disabled Physician Law, Miss. Code Ann. Section 73-25- 51 et seq., that Patricia Lynn Dudley, M.D., hereinafter "Licensee", is unable to practice medicine with reasonable skill and safety to patients by reason of mental illness. The Board, being advised by Board Counsel, Stan T. Ingram, in consultation with Jane E. Tucker, attorney for Licensee, that Licensee has agreed to enter into treatment at a Board approved treatment center, finds it necessary and proper to continue this matter until such time as Licensee completes treatment and has secured advocacy from the Mississippi Professionals Health Program, hereinafter "MPHP".

NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to authority granted in Miss. Code Ann. Section 73-25-59, the Order of Prohibition issued by this Board on June 22, 2011, shall be and is hereby continued until such time as:

1. Licensee enters and completes treatment at a Board approved treatment center; the Board being advised that Licensee has chosen Acumen Institute, Lawrence, Kansas;
2. Licensee has secured advocacy from the MPHP; and

3. Licensee has appeared before the Board at the first available meeting/hearing date following compliance with Items 1 and 2 above, wherein the Board has determined that Licensee is then able to practice medicine with reasonable skill and safety to patients on either a restricted or unrestricted basis.

IT IS FURTHER ORDERED, that in the event Licensee fails to comply with any or all of the above conditions, the June 22, 2011, Order of Prohibition shall thereafter remain in full force and effect until this matter can be duly heard.

IT IS FURTHER ORDERED, that a copy of this Order shall be sent by registered mail or personally served upon Licensee or her attorney.

SO ORDERED, this the 7th day of July, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
WILLIAM S. MAYO, D.O., PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF KATRINA SPEARS BABCOCK, D.O.

ORDER FOR CONTINUANCE AND EXTENSION OF TIME TO ANSWER

THIS MATTER came before the Mississippi State Board of Medical Licensure to be heard on the Motion for Continuance filed by the Respondent, Katrina Spears Babcock, D.O., license number 21247, requesting a continuance to another date for the scheduled July 7, 2011, hearing for the captioned matter, and to be heard on her, *ore tenus*, Motion for Extension of Time to File Answer, in the matter pending before the Mississippi State Board of Medical Licensure in which the Respondent has been summoned to appear before the Mississippi State Board of Medical Licensure to answer charges which have been filed against her. After reviewing said Motions and the file for this matter, and being otherwise fully advised in the premises, the Mississippi State Board of Medical Licensure finds that the Motion for Continuance and the Motion for Extension of Time to File Answer are well-taken, and that both Motions should be, and hereby are, GRANTED.

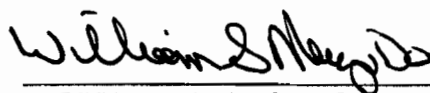
IT IS, THEREFORE, ORDERED that the previously scheduled July 7, 2011, hearing for the captioned matter shall be, and hereby is, continued to a later date.

IT IS FURTHER ORDERED that the time in which Respondent, Katrina Spears Babcock, D.O., may file her Answer in the captioned matter shall be, and hereby is, extended to July 18, 2011.

IT IS ALSO FURTHER ORDERED that the captioned matter is rescheduled to be heard

before the Mississippi State Board of Medical Licensure on its next regularly scheduled date to convene, Thursday, September 22, 2011, commencing at 10:00 a.m., or as soon thereafter as the matter can be heard.

SO ORDERED, this the 7th day of July, 2011.



WILLIAM S. MAYO, D.O., President
Mississippi State Board of Medical Licensure

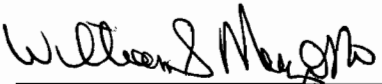
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 07, 2011**

AGENDA ITEM: XII. Hearing in the case of Thomas Frazee Fleischhauer, M.D.

In a motion by Dr. Aycock, seconded by Dr. Miles, the Board unanimously voted to grant the Continuance with the condition of not prescribing any and all scheduled drugs other than orders in the emergency room or hospital setting.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Miles, seconded by Dr. Easterling, the Board came out of Executive Session.



William S. Mayo, D.O.
President

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE**

OF

THOMAS FRAZEE FLEISCHHAUER, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on July 7, 2011, before the Mississippi State Board of Medical Licensure, in response to a request for Continuance of the hearing set for this date, made by Thomas Frazee Fleischhauer, M.D. (hereinafter "Licensee"). After consideration of the matter, the Committee finds Licensee's motion to be well taken.

IT IS, THEREFORE, ORDERED, that this matter is continued until September 22, 2011, at 10:00 a.m., at which time the matter will be heard with no further continuations.

IT IS, FURTHER, ORDERED, that pending the hearing on this matter, Licensee shall not prescribe, administer or dispense controlled substances in any schedule, except that which may be only administered or dispensed to patients duly admitted to and treated within the confines of a hospital emergency department.

IT IS, FURTHER, ORDERED, that pursuant to Section 73-25-27, a copy of this Determination and Order shall be sent by registered mail or personally served upon Licensee. Because Licensee was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 7th day of July, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: _____

William S. Mayo, D.O.

**WILLIAM S. MAYO, D. O.
PRESIDENT**

Mississippi Secretary of State
 700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME MS State Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-0223	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 7/14/11	Name or number of rule(s): 30.11.09.400 - Collaboration/Consultation with Nurse Practitioners		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This is an amendment to a previously filed proposed filing of a current rule which will allow APRNS the ability to continue to practice for a limited time if their collaborative physician is unable to continue in the collaborative relationship due to unforeseen circumstances. The Medical Board will assist the APRN in acquiring physician coverage.

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

List all rules repealed, amended, or suspended by the proposed rule: 30.11.09

ORAL PROCEEDING:

An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

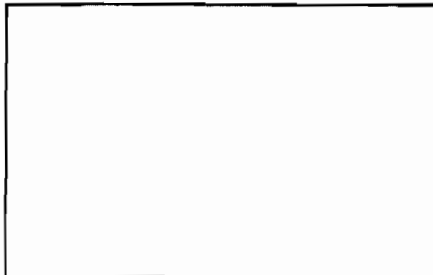
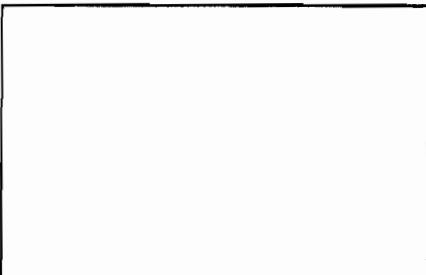
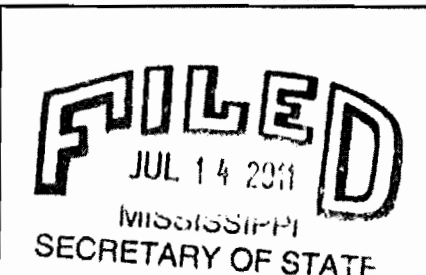
ECONOMIC IMPACT STATEMENT:

Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: <u>5/13/2011</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

Signature of person authorized to file rules: *Rhonda Freeman*

OFFICIAL FILING STAMP  Accepted for filing by _____	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by _____	OFFICIAL FILING STAMP  Accepted for filing by <u>CB17931</u>
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Chapter 09 Collaboration/Consultation with Nurse Practitioners

Scope

100 These regulations apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 09 only, the following terms have the meanings indicated:
1. “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.
 2. “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.
 3. “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.
 4. “Collaborating/Consulting Physician” means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.
 5. “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.
 6. “Advanced Practice Registered Nurse” includes all nurse practitioners, certified nurse midwives and certified registered nurse anesthetists.

Board Review

- 300 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.
- 301 The requirement for Board appearance and approval set forth in Section 300 above also applies to any physician collaborating/consulting with a nurse practitioner who later

moves to a free standing clinic under an existing protocol.

- 302 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 Section 300 above shall not be required until the next succeeding renewal date for said certificate as required by the Mississippi State Board of Nursing.
- 303 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 Section 300. 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.
- 304 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:
1. 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.
 2. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewers' names, and dates of review.
 3. 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.

Collaborative/Consultative Relationships

- 400 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.
- 401 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.

Violation of Regulations

500 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulation

600 The above rules and regulations 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 7, 2011.

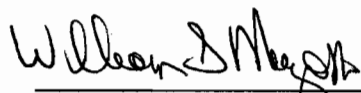
Source: *Miss. Code Ann.* §73-43-11 (Rev.1972)

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 07, 2011

AGENDA ITEM: XIV. Hearing in the case of James Benjamin Burke, M.D.

In a motion by Dr. Easterling, seconded by Dr. Miles, the Board unanimously voted that based on Findings and Fact, Dr. Burke is found guilty of Counts I & II; therefore, this board suspends your license until you complete full treatment from Acumen, must maintain recovery contract with MS Professionals Health Program, and after you complete treatment you may appear before the Board for consideration of lifting of this suspension.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			



William S. Mayo, D.O.
President

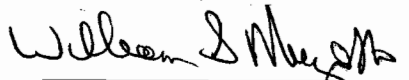
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 07, 2011**

AGENDA ITEM: XIV. Hearing in the case of James Benjamin Burke, M.D.

In a motion by Dr. Aycock, seconded by Dr. Easterling, the Board unanimously voted on the Findings of Fact. Dr. Burke violated his Board Order by: 1) failed to obtain approval in advance for new practice locations; 2) violated Board Order by accepting a position without adequate structured supervision; 3) violated Recovery Contract by failing to disclose the fact that he was taking testosterone due to the nature of his prior misconduct; 4) chronic disregard of orders of the Board, repetitive violation of issue of reporting practice changes; and, 5) under direction examination by the Board answers were found to be untrue.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	X			
Charles D. Miles, M.D.	X			

With a motion by Dr. Miles, seconded by Dr. Chance, the Board came out of Executive Session.



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JAMES BENJAMIN BURKE, M.D.

DETERMINATION AND ORDER

THIS MATTER came on regularly for hearing on July 7, 2011, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. The Board initiated these proceedings on February 5, 2011, by issuance of a Summons and Affidavit against James Benjamin Burke, M.D. (hereinafter "Licensee") setting forth a total of (2) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee was present, represented by Honorable Joel Howell. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for all proceedings were William S. Mayo, D.O., President; S. Randall Easterling, M.D.; Larry B. Aycock, M.D., William B. Jones, M.D., Claude D. Brunson, M.D., Rickey L. Chance, D.O., Virginia M. Crawford, M.D., Philip T. Merideth, M.D., J.D., and Charles D. Miles, M.D.

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact:

1.

James Benjamin Burke, M.D., hereinafter referred to as Licensee, was licensed to practice medicine in the State of Mississippi on December 18, 2007, by issuance of Mississippi Medical License No. 20064, said license is current until June 30, 2012.

2.

On or about June 27, 2002, Licensee surrendered his Certificate of Qualification and License to practice medicine in the State of Alabama based on charges of unprofessional conduct relating to sexual misconduct with female patients.

3.

On August 23, 2005, the Alabama Board of Medical Examiners granted Licensee's petition for reinstatement of license and authorized him to return to the practice of medicine in the State of Alabama, based in part on the fact that he had received treatment by the Behavioral Medicine Institute of Atlanta (BMI), participated in the Florida CARES evaluation, and had submitted a practice plan for monitoring, proctoring and counseling acceptable to the Alabama Board.

4.

In connection with Licensee's application for a license to practice medicine in the State of Mississippi, Licensee submitted to an evaluation by the Mississippi Professionals Health Program (MPHP). Licensee met with MPHP on September 10, 2007, and after reviewing documentation provided by Licensee, including a report from BMI, the MPHP found

Licensee's treatment process and documentation to be in order and agreed to support him for licensure in the State of Mississippi, subject to a monitoring contract. The monitoring agreement required Licensee to report to the MPHP any medications which he may take.

5.

Despite sufficient grounds to deny licensure, the Board granted a Mississippi medical license to Licensee on December 18, 2007, subject a reportable Consent Order, dated November 30, 2007 (Board Exhibit 5), limiting Licensee's practice to the following probationary terms and condition, to wit:

1. Until authorized otherwise by order of the Board, Licensee's practice in the State of Mississippi shall be limited to the Mississippi State Penitentiary, Parchman, Mississippi, or other correctional facilities under the jurisdiction of the Mississippi Department of Corrections. Licensee shall practice in a supervised structured environment, and such practice shall be limited to treatment of male patients only.
2. Licensee shall comply with all of the terms and conditions of the Monitoring Agreement entered into by and between Licensee and MPHP. In the event Licensee fails to comply with any or all of the terms and conditions of the Monitoring Agreement, or violates any of the terms and conditions of this Consent Order, the Board shall have the right to issue an Order of Prohibition, thereby prohibiting Licensee from practicing medicine pending the outcome of a full evidentiary hearing based on the violations alleged.

6.

During August 2009 Licensee began practicing medicine at the Adams County Correctional Center, Natchez, Mississippi, which is a privately held correctional facility housing only federal prisoners, all contrary to the terms of the aforementioned Consent Order. A hearing was conducted as to the matter, wherein Licensee openly acknowledged his failure to obtain permission from the Board prior to his employment at Adams County. Notwithstanding, the Board recognized that the Adams County Correctional Center, similar to the Mississippi State Penitentiary, provided Licensee with a supervised structured practice limited to the treatment of male patients only. The Board, after hearing all testimony and evidence, authorized Licensee to continue his practice at the Adams County Correctional Center, but amended Restriction No. 1 of the 2007 Consent Order as follows, to-wit (Board Exhibit No. 6):

1. Until authorized otherwise by Order of the Board, Licensee's practice in the state of Mississippi shall be limited to the Adams County Correctional Center, Natchez, Mississippi, or other correctional facility approved in advance and in writing by the Board. Licensee shall practice in a supervised structured environment, which practice shall be limited to treatment of male patients only. (emphasis added)

7.

On October 25, 2010, Licensee petitioned the Board for removal or amendment of the restrictions on his license. The matter for set for hearing on January 20, 2011, but removed at the request of Licensee.

8.

During December 2010, Licensee left the employ of Adams County Correctional Center, Natchez, Mississippi, and began working for the Central Mississippi Correctional Facility, Pearl, Mississippi, without obtaining the required prior written approval from the Board. Licensee was then serving as the Medical Director of Central Mississippi Correctional Facility, thereby not working in a supervised structured environment. Furthermore, Licensee was treating female patients.

9.

On January 25, 2011, the Board received a letter (Board Exhibit No. 9) from Scott L. Hambleton, M.D., Medical Director of the MPHP, stating that MPHP had met with Licensee on January 7, 2011, and that as a result of the aforementioned events, MPHP would not advocate for Licensee for removal of any of the aforementioned restrictions. It was noted that in April 2010, Licensee had started taking injectable testosterone prescribed by his family physician, Scott Wolfe, M.D., who was not aware of Licensee's previous sexual boundary violations, Consent Order or treatment at BMI, in 2004. Licensee did not notify MPHP of his use of testosterone until January 18, 2011. According to Dr. Hambleton, the use of testosterone by a person with his history is extremely worrisome..."

10.

At the request of MPHP, during March and April 2011, Licensee submitted to an assessment at Acumen Assessments LLC in Lawrence, Kansas, and thereafter began receiving treatment for a number of DSM-IV diagnoses. Following the initial assessment it was observed by the Acumen staff that

"The assessment team is of the opinion that Licensee continues to put his professional status, licensure, and livelihood in jeopardy. Although he is fit to practice medicine at his current level of restrictions, and is not impaired, he is in need of treatment to address the unresolved difficulties noted in this report. This treatment process should be undertaken in order to address the difficulties noted in this report, reduce the humiliation and shame he still struggles with in association with his history, and address and resolve the high level of resentment he feels in association with the subjective sense of feeling mistreated."

It was the recommendations of the Acumen that Licensee engage in an intensive outpatient treatment process to address the challenges noted in this report and that the treatment process involve an immersion in a sequence of interventions aimed at helping him to (1) address the emotional, environmental, professional, historical and interpersonal components that have been causal in boundary/ethical problems; (2) examine the personal vulnerabilities (shame, resentment, entitlement) that influence compromised interpersonal judgment; and (3) internalize the skills needed to maintain professional boundaries to prevent a reoccurrence of sexual misconduct or sexual harassment in the future. It was added that Licensee's individual psychotherapy "has apparently not been sufficient to protect himself and other from personality characteristics that are self-destructive, frustrating and humiliating to other..." (Respondent Exhibits No. R-2).

11.

During the hearing, Dr. Hambleton testified that inasmuch as Licensee had started treatment at Acumen, he was able to practice medicine with reasonable skill and safety to patients provided he continues his out-patient treatment as directed.

CONCLUSIONS OF LAW

Based on the Finding of Facts as enumerated above, Licensee is guilty of Counts I and II of the Affidavit as filed with the Board. Specifically, Licensee has failed to abide by the provisions of an order or agreement with the Board in violation of Miss. Code Ann., §73-25-29(13) and is guilty of unprofessional conduct, which includes, but is not limited to any dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Miss. Code Ann., § 73-25-29(8)(d) and 73-24-83(a).

Despite the fact that Licensee is now receiving out-patient treatment as recommended by Acumen Assessments and the MPHP, the fact remains that Licensee has yet again violated the terms and conditions of a prior Board order, specifically failing to obtain approval of his current practice location; accepting a position without adequate structured supervision, and failing to disclose his use of testosterone (especially in view of the nature of his prior misconduct). Licensee's chronic disregard of the orders of this Board is troublesome. Furthermore, portions of Licensee's direct testimony in response to questions by the Board members were found to be untrue.

ORDER

IT IS THEREFORE, ORDERED, that Mississippi Medical License No. 20064, issued to James Benjamin Burke, M.D. is hereby indefinitely suspended.

IT IS FURTHER ORDERED, that Licensee shall have the right, but not an obligation to petition the Board for reinstatement of his license at such time as:

1. Licensee successfully completes all phases of treatment at Acumen Assessments, LLC, Lawrence, Kansas, and is found capable to practicing medicine with reasonable skill and safety to patients;

2. Licensee secures advocacy with the Mississippi Professionals Health Program (MPHP) and enters into a minimum five (5) year Monitoring Contract with MPHP; and

IT IS FURTHER ORDERED, that any petition for reinstatement filed by Licensee upon completion of Conditions 1 and 2 above, shall be heard at the first available hearing date after receipt of said petition.

IT IS FURTHER ORDERED, that Dr. Burke shall reimburse the Board of all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., Section 73-25-30. Dr. Burke shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date of mailing of the notification.

IT IS FURTHER ORDERED, that pursuant to Section 73-25-27, a copy of this Determination and Order shall be sent by registered mail, or personally served upon James Benjamin Burke, M.D., or his Counsel, Honorable Joel Howell. Because both parties were informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 17th day of July, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo, D.O.
WILLIAM S. MAYO, D.O., PRESIDENT

SEPTEMBER 2011

**MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 21, 2011**

MEMBERS PRESENT:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary

ALSO PRESENT:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Frances Carrillo, Special Projects Officer, Investigative Division
Mickey Boyette, Investigator, Investigative Division
Ruby Litton, RN, Compliance Nurse
Sherry H. Pilgrim, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, September 21, 2011, at 1:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

PERSONAL APPEARANCE BY ROBERT FRANKLIN COOPER, III, M.D., OXFORD, MISSISSIPPI MEDICAL LICENSE NUMBER 07642

Dr. Craig advised that the Board had requested that Dr. Cooper personally appear to discuss issues that the Board has with collaboration with his advanced practice registered nurse (APRN). Dr. Craig advised that Dr. Cooper's APRN had used the web and emails to advertise a Botox Consultation/Procedure Day, when neither are trained in the use of Botox.

Dr. Cooper joined the meeting and was represented by John G. Jones, legal counsel. Dr. Cooper had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

Mr. Jones addressed the Executive Committee and stated that he and Dr. Cooper had sent information to address the concerns on Dr. Craig's letter dated July 13, 2011. Mr. Jones stated that Dr. Cooper has been a preceptor since 1994 and feels that he goes above and beyond the Board's requirements. Mr. Jones advised that Dr.

EXECUTIVE COMMITTEE MINUTES

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Cooper was unaware of the ad and as soon as he was made aware he instructed the APRN to remove it at once. Mr. Jones stated that the APRN was only trying to see if there was any interest in the use of Botox in the area.

After a brief discussion, the Executive Committee thanked Dr. Cooper and Mr. Jones for appearing and advised them that they would discuss the matter further and advise them of the outcome.

Following a brief discussion, the Executive Committee unanimously agreed to issue Dr. Cooper a non-public letter of concern expressing the Board's concerns with his failure to communicate, and not being aware of the practice of his APRN concerning the use of Botox, and the Board's requirement of practice compatibility between the collaborating physician and APRN.

PERSONAL APPEARANCE BY JOHN PAUL LEE, M.D., FOREST, MISSISSIPPI MEDICAL LICENSE NUMBER 05638

Dr. Craig advised that the Board had requested that Dr. Lee personally appear to discuss several concerns that have come to the Board's attention. Dr. Craig advised that a stamped signature seems to be used in the records room of Lackey Memorial Hospital, Forest, Ms., that an ad had been run in the local newspaper identifying two (2) APRNs as physicians, as well as the manner in which the APRNs seek advice from different physicians.

Dr. Lee joined the meeting and was not represented by legal counsel. Dr. Lee had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference. Dr. Lee was joined by Austin Archie Howard, Jr., M.D., and William Mark Lewis, M.D., all who work together at the Forest Family Practice Clinic and also collaborate with the APRNs.

After introductions, Dr. Craig covered issues of concern that the Board has with Dr. Lee's collaborative agreement. Dr. Lee addressed the Executive Committee and advised that the signature stamp has been destroyed and stated that the purpose for it was to be used only on discharge notes. Dr. Lee advised that each physician was the primary for two (2) APRNs, but that they all collaborate as a group.

After a brief discussion concerning the ad and other deficiencies found during Mrs. Litton's audit on May 6, 2011, the Executive Committee expressed their concerns that APRNs are allowed to admit, follow, and discharge a hospital inpatient without them being seen and personally evaluated by a physician. The Executive Committee stated that they feel that any patient admitted to an acute care hospital should be seen

EXECUTIVE COMMITTEE MINUTES

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each day by a physician, and that they expect the matter to be immediately addressed.

The Executive Committee thanked the physicians for appearing and advised them that they would discuss the matter further and get back with them later.

Following further discussion, the Executive Committee unanimously agreed to issue each physician a non-public letter of concern addressing the issues discussed and reiterating the fact that the Board's mission is to protect the public and in so doing, they feel that any patient admitted to an acute care hospital should be seen each day by a physician. Also, the Executive Committee agreed to send the administrator of Lackey Memorial Hospital a letter of concern relative to correctly identifying APRNs in future advertisements.

Following further discussion, Dr. Easterling made a motion to authorize an investigative subpoena to get additional records to determine if further action is necessary relative to the stamp being used on progress notes and orders. Dr. Crawford seconded the motion, and the motion carried unanimously.

PERSONAL APPEARANCE BY STANFORD ALLEN OWEN, M.D., GULFPORT, MISSISSIPPI MEDICAL LICENSE NUMBER 08597

Dr. Craig advised that the Board had requested that Dr. Owen personally appear to discuss his collaborative agreement with his APRN. Dr. Craig advised that Dr. Owen practices and lives in Gulfport, and his collaborative APRN practices in Hattiesburg. Dr. Craig advised that he has been informed that the collaborative relationship has been resolved, but Dr. Owen is here to address any questions.

Dr. Owen joined the meeting and was not represented by legal counsel. Dr. Owen had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

Dr. Owen advised that the relationship had been dissolved. After a brief discussion concerning free standing clinics versus in-office APRNs, the Executive Committee thanked Dr. Owen for appearing and advised that they would discuss the matter further and advise their decision later.

After a brief discussion, the Executive Committee unanimously agreed to issue a non-public letter of concern to Dr. Owen expressing the Board's concern with his past collaborative relationship and using it as a measure of what is required in the Board's rules and regulations should he decide to have another collaborative relationship in the future.

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THE EXECUTIVE COMMITTEE RECESSED AT 2:55 P.M. AND RETURNED AT 3:05 P.M.

**PERSONAL APPEARANCE BY AS'AD EHTISHAM, M.D., LOUISVILLE, KY,
APPLICANT**

Dr. Craig advised that Dr. Ehtisham had been invited to appear before the Executive Committee to discuss his multiple attempts to pass all 3 steps of the USMLE, as well as information received during the processing of his application that indicated that he had some negative reports filed and he was disciplined or placed under investigation during his residency.

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Ehtisham when he joined the meeting and advised that he had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference. Mr. Ingram advised that Dr. Ehtisham was here today without counsel.

Dr. Ehtisham addressed the Executive Committee and thanked them for allowing him to appear to address the matter. Dr. Ehtisham explained the time involved as well as the number of attempts to pass all 3 steps of the USMLE. Dr. Ehtisham stated that one of his problems is testing and then answered several questions.

The Executive Committee thanked Dr. Ehtisham for appearing and advised that they would discuss the matter further and advise their decision after taking the matter to the full Board on Thursday.

Following further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that based on the information provided that sufficient documentation was presented that provides extenuating circumstances for a waiver to be granted.

**PERSONAL APPEARANCE BY OTIS ANDERSON, III, M.D., MEMPHIS, TN,
APPLICANT**

Dr. Craig advised that Dr. Anderson had been invited to appear before the Executive Committee to allow him the opportunity to request a waiver of the Board's regulation due to the fact that he failed to complete all 3 steps of the USMLE within the 7 year requirement, and to provide the Board with the extenuating circumstances surrounding the request.

EXECUTIVE COMMITTEE MINUTES

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Stan Ingram, Complaint Counsel for the Board, introduced Dr. Anderson when he joined the meeting and advised that he had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference. Mr. Ingram advised that Dr. Anderson was here today without counsel.

Dr. Anderson thanked the Executive Committee for the opportunity and advised that he did not complete his USMLE timely as he became the primary caretaker for his mother who was placed on dialysis.

The Executive Committee asked Dr. Anderson several questions and Dr. Mayo thanked him for appearing today. Dr. Mayo advised Dr. Anderson that the Board would advise him of their decision later.

Following further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to issue Dr. Anderson an unrestricted license and to grant the waiver due to extenuating circumstances associated with a family illness.

SURRENDERS

Dr. Craig advised that Surrenders have been held until approved by the Full Board before reporting. In order to achieve promptness, Dr. Craig advised that he was recommending that he be allowed to sign Surrenders instead of the Board President and then have the Board ratify at the next meeting. After a brief discussion, motion was made by Dr. Easterling to empower Dr. Craig to sign Surrenders so that the effective date is immediate and have the Board ratify at the next meeting. The motion was seconded by Dr. Crawford and was unanimous.

UPDATE ON DON A. GIBSON, M.D., RICHLAND, MISSISSIPPI MEDICAL LICENSE NUMBER 07980

For informational purposes only, Dr. Craig briefly discussed a letter that had been received from Dr. Gibson after his appearance before the Executive Committee in July.

UPDATE ON MUKUND KANU PATEL, M.D., COLUMBUS, MISSISSIPPI MEDICAL LICENSE NUMBER 14386

Dr. Craig advised that Dr. Patel has lost advocacy with the Mississippi Professionals Health Program and does not have a current Mississippi medical license. Dr. Craig advised that Dr. Patel lost his job at North Mississippi Medical Center due to problems during orientation. Dr. Craig advised that he has been contacted by a health

EXECUTIVE COMMITTEE MINUTES

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insurance company in Jackson that wants to hire Dr. Patel to fill out questionnaires and that he will not be performing any physical exams. Dr. Craig stated that after talking with his perspective employer that he made him aware of the fact that Dr. Patel does not have a medical license and cannot practice medicine.

After a brief discussion, the Executive Committee unanimously agreed that they see no problem as long the potential company understands that Dr. Patel does not have a medical license and cannot perform anything medically. The Executive Committee requested that Dr. Craig follow-up with a letter to his employer.

DISCUSS INFORMATION RECEIVED ON RALPH TINGHAN HO, M.D., RENO, NV, MISSISSIPPI MEDICAL LICENSE NUMBER 18649

Dr. Craig advised that the Board had received information from the North Dakota Medical Board where they had suspended Dr. Ho's medical license for a period of one (1) year, with the suspension stayed, provided Dr. Ho complies with all the conditions. Dr. Craig advised that the action was based on an arrest for driving while intoxicated and while he was on call to provide medical services.

After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to mirror the actions taken by the North Dakota Medical Board.

LETTER FROM CHARLES A. CARLISLE, HOSPITAL DIRECTOR, EAST MISSISSIPPI STATE HOSPITAL CONCERNING RUBEN CRUZ, M.D., AND PACIFICO ONGKINCO, M.D.

Dr. Craig briefly discussed the request from Mr. Carlisle, Hospital Director, at East Mississippi State Hospital. Dr. Craig advised that this matter has gone on for a long time and that both physicians are over the maximum five (5) year limit that is provided by the Board's rules and regulations. Dr. Craig advised that earlier this year he had advised Mr. Carlisle that the Board had indicated that they will not renew their licenses after this licensure cycle as doing so is a violation of Mississippi Code §73-25-23.

After further discussion, it was determined that the hospital needs to investigate initiating legislation that will protect institutional licensees and isolate the counties where mental hospitals are located. It was the unanimous decision of the Executive Committee to discuss this matter with the full Board on Thursday.

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REQUEST FROM ZUDONG ZHANG, M.D., GREENWOOD, MISSISSIPPI MEDICAL LICENSE NUMBER 20714

Dr. Craig briefly discussed the request from Dr. Zhang to practice acupuncture in his practice. Dr. Craig stated that under our rules and regulations Dr. Zhang has not had U S training, but he has had Canadian training.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to approve his request and accept the Canadian CME information submitted.

UPDATE ON LUIZ DE LIMA, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 13447

For informational purposes only, Dr. Craig provided an update on Dr. Lima. Dr. Craig advised that Dr. Lima had appeared before the Executive Committee on March 23, 2011, concerning some Adderall prescriptions that Dr. Lima had written and had filled for his finance'. Dr. Craig advised that Dr. Lima had not kept any patient records on his finance'. Dr. Craig advised that the Executive Committee had sent him a non-public letter of concern advising him to attend courses on proper prescribing, record keeping, and professional boundary issues. Dr. Craig advised that he had received documentation to support Dr. Lima's compliance.

OTHER BUSINESS

Dr. Craig briefly discussed a problem with a hospital skirting issues to not report physicians when they have had problems. Dr. Craig advised that the Board had served the hospital with a subpoena for records and all the pertinent information had been redacted. Dr. Craig advised that PHP had sent the physician to Acumen and their evaluation showed severe dementia. Dr. Craig asked for guidance since the hospital has not helped us and wanted to know how does the Board wants to proceed.

After a brief discussion, the Executive Committee unanimously agreed to ask the President of the Medical Staff and the CEO of the hospital to come address the Board.


AGENDA FOR BOARD MEETING

Dr. Craig briefly reviewed the agenda for tomorrow's meeting.

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ADJOURNMENT

There being no further business, the meeting adjourned at 4:50 p.m.



WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
September 21, 2011

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

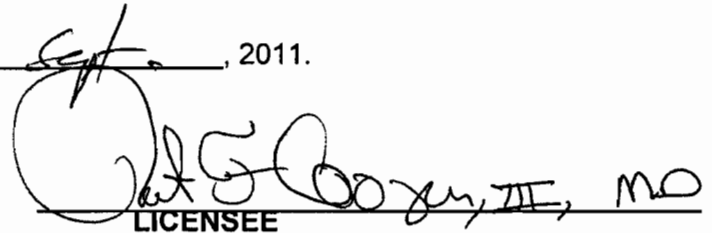
I, Robert Franklin Cooper, III, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: John G. Jones)

without legal counsel present

EXECUTED, this the 21 day of Sept, 2011.



LICENSEE

Witness: John G. Jones
Janna White

John G. Jones, Attorney
NAME PRINTED

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, John Paul Lee, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 21 day of Sept, 2011.

Witness:

Janna White

John Paul Lee
LICENSEE

John P. Lee M.D.
NAME PRINTED

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, Stanford Allen Owen, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

___ with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 21 day of September, 2011.



LICENSEE

Stanford Owen MD

NAME PRINTED

Witness:

Janna White

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY APPLICANT FOR LICENSURE**

I, As'Ad Ehtisham, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss my pending application for a Mississippi medical license, the current investigation being conducted by the Board, possible grounds for denial, and possible resolution of the matter. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for denial of licensure during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal show cause hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)
 without legal counsel present

EXECUTED, this the 21 day of Sept, 2011.

Witness

Jannah White

APPLICANT

As'ad Ehtisham

NAME PRINTED

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY APPLICANT FOR LICENSURE**


I, Otis Anderson, III, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss my pending application for a Mississippi medical license, the current investigation being conducted by the Board, possible grounds for denial, and possible resolution of the matter. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for denial of licensure during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal show cause hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 21 day of September, 2011.



APPLICANT

Otis Anderson, III ^{ms}

NAME PRINTED

Witness: Jannah White

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 22, 2011

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, September 22, 2011, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary
Larry B. Aycock, M.D., McComb
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
Charles D. Miles, M.D., West Point

Also present:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee
Cecil R. Burnham, Jackson, Consumer Health Committee
Charles Thomas, Yazoo City, Consumer Health Committee

Not present:

Claude D. Brunson, M.D., Jackson
Philip T. Merideth, M.D., J.D., Jackson

The meeting was called to order at 9:05 a.m. by Dr. Mayo, President. The invocation was given by Mr. Breland and the pledge was led by Dr. Aycock. Dr. Mayo welcomed the Court Reporter, Debra Williams, and extended a welcome to all visitors present at the meeting.

Dr. Mayo opened the floor for opening remarks and /or announcements but there were none.

BOARD MINUTES
SEPTEMBER 22, 2011
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Dr. Mayo opened the floor for public comments. Reed Branson, with the Mississippi Academy of Physician Assistants, stated that he and Rebecca Loveless, would like to comment on the proposed regulation changes concerning *The Practice of Physician Assistants*. Dr. Mayo thanked him and advised him that the matter would be addressed later in the meeting.

SPECIAL ORDER OF BUSINESS - PRESENTATION

Dr. Craig introduced Major Todd Pohnert, one of the Board's investigators, that has just returned from Afghanistan. Major Pohnert presented the Board with an American flag that was flown over the Joint Sustainment Command - Afghanistan on April 3, 2011, as well as a certificate signed by Brigadier General Philip R. Fisher, Commanding General.

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD JUNE 01, 2011, THROUGH AUGUST 31, 2011

Two hundred forty-seven (247) licenses were certified to other entities for the period June 01, 2011, through August 31, 2011. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD JUNE 01, 2011, THROUGH AUGUST 31, 2011

Two hundred one (201) licenses were issued for the period June 01, 2011, through August 31, 2011. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED JULY 06, 2011, AND MINUTES OF THE BOARD MEETING DATED JULY 07, 2011

Minutes of the Executive Committee meeting dated July 06, 2011, and Minutes of the Board meeting dated July 07, 2011, were reviewed. Dr. Crawford moved for approval of the minutes as submitted. Dr. Easterling seconded the motion, and it carried unanimously.

REPORT OF SEPTEMBER 21, 2011, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered a number of appearances and issues that were discussed/approved by the Executive Committee on September 21, 2011. Information pertaining to the Executive Committee decisions is included in the Executive Committee Minutes dated September 21, 2011.

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SEPTEMBER 22, 2011
Page 3

Dr. Mayo stated that the Executive Committee moves that their actions/decisions be approved. The Board unanimously approved to ratify the actions/decisions taken by the Executive Committee.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Crawford (Chair), Dr. Easterling, Dr. Aycock, Dr. Miles, Dr. Brunson, Mr. Burnham, Mr. Thomas

Dr. Crawford advised the committee met this morning to discuss education of physicians concerning the responsibility of a collaboration relationship and mileage issues. Dr. Crawford advised that the Board does not wish to restrict essential healthcare for Mississippians and that quality is the concern. Dr. Crawford advised that a sub committee was appointed with Dr. Chance, Dr. Easterling, and Dr. Crawford serving.

Professionals Health Program - Dr. Mayo (Chair), Dr. Merideth, Dr. Chance

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

Rules, Regulation & Legislative - Dr. Easterling (Chair), Dr. Jones, Dr. Mayo, Dr. Chance, Mr. Breland

Dr. Easterling advised there was no new information to report

Ethics - Dr. Merideth (Chair), Dr. Crawford, Dr. Jones

Dr. Merideth was absent, but Dr. Crawford was not aware of any new information to report.

Telemedicine / EHR - Dr. Aycock (Chair), Dr. Miles, Dr. Brunson

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

APPROVAL TO ADD CME COURSES PRESENTED AT THE JULY 07, 2011, PRESENTATION BY GREGORY E. SKIPPER, M.D., MEDICAL DIRECTOR, MEDICAL ETHICS AND PROFESSIONALISM WITH PROFESSIONAL BOUNDARIES, INC., TO BOARD'S APPROVED COURSE LIST

Dr. Craig advised that after Dr. Skipper made his presentation at the last meeting that the Board failed to vote on approving the CME courses be added to the Board's approved course list. Motion was made by Dr. Easterling, seconded by Dr.

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SEPTEMBER 22, 2011
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Crawford, and carried unanimously to approve the CME courses to be added to the Board's approved course list.

PERSONAL APPEARANCE BY KATRINA SPEARS BABCOCK, D.O., WOODLAND HILLS, CA, MISSISSIPPI MEDICAL LICENSE NUMBER 21247, AGREED ORDER OF REPRIMAND

Stan Ingram, Complaint Counsel for the Board, covered the Summons and Affidavit and stated that Dr. Babcock, through her attorney, Doug Mercier, had requested a Settlement Conference which ended with an Agreed Order of Reprimand. Mr. Ingram advised that the Agreed Order of Reprimand was being presented to the Board for consideration/approval. Mr. Ingram briefly summarized the Order for the Board's consideration.

Mr. Ingram, introduced Dr. Babcock and her attorney, Doug Mercier. Mr. Mercier addressed the Board and briefly covered the facts and stated that Dr. Babcock is not a resident of Mississippi. Mr. Mercier advised that Dr. Babcock is licensed in Mississippi and California and currently resides and practices in California. Mr. Mercier stated that Dr. Babcock was here today to request the Board's approval of the Agreed Order of Reprimand.

Dr. Mayo stated that if for any reason the Board does not agree to approve the Order as submitted, that we will have a hearing at another Board meeting. Dr. Mayo stated that the purpose of the meeting today is to either approve or reject the Agreed Order of Reprimand.

Dr. Babcock was called as a witness and was sworn in by the court reporter. Dr. Babcock discussed HIPAA compliance and how she reviews charts online. Dr. Babcock responded to several questions from Board members.

Motion was made by Dr. Aycock, seconded by Dr. Chance, and carried unanimously to accept the Agreed Order of Reprimand as submitted. A copy of the Board's Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

PERSONAL APPEARANCE BY THOMAS FRAZEE FLEISCHHAUER, M.D., BATESVILLE, MISSISSIPPI MEDICAL LICENSE NUMBER 19602, PROPOSED CONSENT ORDER

Mr. Ingram advised that Dr. Fleischhauer was present but was not represented

BOARD MINUTES
SEPTEMBER 22, 2011
Page 5

by legal counsel. Mr. Ingram introduced Dr. Fleischhauer and Ms. O'Neal, Assistant Attorney General, questioned Dr. Fleischhauer regarding his right to legal representation. Dr. Fleischhauer stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram advised that a Settlement Conference had been held and that Dr. Fleischhauer was here today to request approval of the Consent Order that was agreed upon during that meeting. Mr. Ingram advised that if the Board rejects the Consent Order as submitted, that Dr. Fleischhauer has requested that a date be set to have the hearing at another Board meeting. Mr. Ingram briefly summarized the Summons and Affidavit and the proposed Consent Order that was before the Board for consideration.

Dr. Fleischhauer was sworn in by the Court Reporter before addressing the Board. Dr. Fleischhauer stated that he wanted to clarify several issues in the Affidavit and explained how he is currently addressing them.

Following several questions from Board members, motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to accept the proposed Consent Order as submitted. A copy of the Consent Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

THE BOARD RECESSED AT 10:20 A.M. AND RETURNED AT 10:30 A. M.

PRESENTATION BY DIANE WALKER, M.D., MEDICAL DIRECTOR, PINE GROVE BEHAVIORAL HEALTH, HATTIESBURG, MS

Dr. Mayo introduced Debbie Sanford, Chief Officer, Behavioral Health and Addiction Services, Philip Hemphill, PhD, Randall Sherman, M.D., and Edward Anderson, PhD, all with the Pine Grove Behavioral Health and Addiction Service program in Hattiesburg.

Ms. Sanford, addressed the Board and thanked them for the opportunity to be here today. Ms. Sanford advised that Dr. Walker was not present due to the death of her husband. Ms. Sanford provided an overview before introducing Dr. Hemphill who discussed evaluations and their cost. Dr. Sherman addressed the Board and stated that he was the staff addictionologist and briefly discussed his role with participants. Dr. Anderson covered the evaluation process as well as describing the components of the evaluations done at Pine Grove.

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Following questions by the Board, Dr. Mayo thanked the group for coming and providing the Board with such an informative presentation.

PRESENTATION BY LISA SUDDERTH, STEPHEN SUDDERTH, M.D., AND DAVID BRYMAN, D. O., CONCERNING BARIATRIC MEDICINE/MEDICAL WEIGHT LOSS

Dr. Mayo introduced Ms. Sudderth, Dr. Sudderth, and Dr. Bryman and advised that they had requested to present information to the Board concerning bariatric medicine and to request possible recommendations to the Board's rules and regulations pertaining to the matter.

Dr. Bryman addressed the Board and advised that he is the President-elect of the American Society of Bariatric Medicine, and a past Board member of the American Board of Bariatric Medicine (ABBM). Dr. Bryman discussed guidelines compiled by the ABBM concerning obesity and how it relates to the Board's current rules and regulations. Dr. Bryman provided recommendations to the Board and requested consideration from the Board concerning the proposal.

Dr. Sudderth addressed the Board and stated that he is actively involved in bariatric medicine. Dr. Sudderth stated that he echos Dr. Bryman's request in an attempt to set higher standards of care in the area of obesity. Dr. Sudderth discussed requirements concerning physicians involved in weight loss clinics, their continuing education, and clinic registration with the Board to ensure public safety.

Ms. Sudderth briefly discussed the clinic where she is the Clinic Manager, Premier Medical Weight Loss of Mississippi. Ms. Sudderth discussed the comprehensive approach they use during orientation, how patients work with a dietician for meal planning, and the strict guidelines adhered to at their clinic.

Following several questions from the Board, Dr. Mayo thanked the group for their informative presentation before referring the matter to the Board's Rules, Regulation and Legislative Committee where it was suggested that a Task Force be formed to address this matter further.

PRESENTATION BY WILLIAM DAVID WHITTON, M.D., CONCERNING HCG FOR WEIGHT LOSS AT BODY ANEW MEDICAL SPA

Dr. Craig advised that Dr. Whitton is a family medicine physician that practices in the Madison area. Dr. Craig advised that Dr. Whitton had used HCG (Human Chorionic Gonadotropin) for weight loss in his clinic and has kept some statistical data which the Board has requested that he share.

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Page 7

Dr. Whitton addressed the Board and advised that HCG is an unapproved drug by the FDA for weight loss and that he had the patients sign a waiver before he used the medicine in this manner, but stated he had seen some positive results. Mr. Ingram advised that he wished to state that the Board has disciplined physicians in the past for using this product for weight loss since it is not FDA approved. Dr. Whitton advised that he ceased and desisted the use several months ago when he was visited by the Board, but that he was here today at the Board's request to simply provide statistical information that he had gathered before the Board's cease and desist letter.

Following several questions from the Board, Dr. Mayo thanked Dr. Whitton for making the presentation to the Board.

**HEARING IN THE CASE OF RAY A. HARRON, M.D., BRIDGEPORT, WV,
MISSISSIPPI MEDICAL LICENSE NUMBER 14223, MOTION FOR CONTINUANCE**

Dr. Harron was not present today but was represented by Janessa Blackmon, attorney with Blackmon & Blackmon. Mr. Ingram advised that Dr. Harron's attorney was requesting a Motion for Continuance until the November Board meeting.

Motion was made by Dr. Crawford, seconded by Dr. Miles, and carried unanimously to grant the Continuance until the November Board meeting. Mr. Ingram advised Ms. Blackmon that the exact date of the meeting would be set at the end of today's meeting and that he would advise them so that they can be prepared. A copy of the Order of Continuance is attached hereto and incorporated by reference.

THE BOARD RECESSED FOR LUNCH AT 11:50 A.M. AND RETURNED AT 1:00 P.M.

**HEARING IN THE CASE OF JOHN LEONARD HERZOG, M.D., GREENVILLE,
MISSISSIPPI MEDICAL LICENSE NUMBER 09800, REQUEST FOR
REINSTATEMENT**

Dr. Herzog was present and represented by legal counsel, Allison Simpson.

Mr. Ingram introduced Dr. Herzog and Ms. Simpson. Mr. Ingram briefly summarized Dr. Herzog's history, made an opening statement, and entered several exhibits into the record. Mr. Ingram advised that Dr. Herzog has complied with the Board's Consent Order dated March 24, 2011, and was here today requesting reinstatement of his medical license.

Before Dr. Herzog was questioned by the Board, he was sworn in by the court reporter. Following several questions by the Board, motion was made by Dr. Easterling that the Board enter into Executive Session to discuss possible further disciplinary

action. Dr. Jones seconded the motion, and it carried unanimously.

Upon a motion by Dr. Crawford, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board finds that Dr. Herzog has met the requirements to have his invasive cardiology privileges reinstated by fulfilling the requirements set forth in the Order of the Board dated March 24, 2011. A copy of the Board's Order Removing All Restrictions is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

**HEARING IN THE CASE OF H. LEE RICHARDSON, JR., M.D., REFORM, AL,
MISSISSIPPI MEDICAL LICENSE NUMBER 10330, PETITION TO REMOVE
RESTRICTIONS**

Mr. Ingram advised that Dr. Richardson was present but was not represented by legal counsel. Mr. Ingram introduced Dr. Richardson and Ms. O'Neal, Assistant Attorney General, questioned Dr. Richardson regarding his right to legal representation. Dr. Richardson stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram briefly summarized Dr. Richardson's history, made opening remarks, and placed several exhibits into the record. Mr. Ingram advised that Dr. Richardson was here today to request that the current restrictions on his license be removed as he is now in compliance with the Board's Order.

Before Dr. Richardson was questioned by the Board, he was sworn in by the court reporter. Dr. Richardson addressed the Board and stated that he is now in compliance with both Alabama and Mississippi's Board orders and was requesting that all restrictions be removed.

Motion was made by Dr. Aycock, seconded by Dr. Miles, and carried unanimously that the Board remove all restrictions currently placed on Dr. Richardson's medical license. A copy of the Order Removing All Restrictions is attached hereto and incorporated by reference.

**HEARING IN THE CASE OF ANDREW J. PETERSON, D.O., GULFPORT,
MISSISSIPPI MEDICAL LICENSE NUMBER 20037, REQUEST FOR
REINSTATEMENT**

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Mr. Ingram advised that Dr. Peterson was present but was not represented by legal counsel. Mr. Ingram introduced Dr. Peterson and Ms. O'Neal, Assistant Attorney General, questioned Dr. Peterson regarding his right to legal representation. Dr. Peterson stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram stated that Dr. Peterson was here today to request reinstatement. Mr. Ingram briefly discussed Dr. Peterson's licensure history, summarized the original Consent Order, and entered several exhibits into the record.

Before addressing the Board, Dr. Peterson was sworn in by the court reporter. The Board asked Dr. Peterson several questions concerning what his plans are now that he is no longer in the military.

Motion was made by Dr. Easterling, seconded by Dr. Miles, and carried unanimously to grant Dr. Peterson's request and to reinstate his medical license removing all restrictions. A copy of the Order Removing All Restrictions is attached hereto and incorporated by reference.

**HEARING IN THE CASE OF ROBERT STEPHEN CORKERN, M.D., BATESVILLE,
MISSISSIPPI MEDICAL LICENSE NUMBER 12101, REQUEST FOR
REINSTATEMENT**

Mr. Ingram advised that Dr. Corkern was present but was not represented by legal counsel. Mr. Ingram introduced Dr. Corkern and Ms. O'Neal, Assistant Attorney General, questioned Dr. Corkern regarding his right to legal representation. Dr. Corkern stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram stated that Dr. Corkern was here today to request reinstatement. Mr. Ingram briefly discussed Dr. Corkern's licensure history, summarized the original Consent Order, and entered several exhibits into the record.

Before addressing the Board, Dr. Corkern was sworn in by the court reporter. Dr. Corkern thanked the Board for allowing him to appear and stated that he was here today to request that the Board remove all restrictions currently placed on his license. Dr. Corkern advised that he has taken CME courses over and above the Board's requirement and met all requirements placed on him.

Following several questions by the Board, motion was made by Dr. Crawford, seconded by Dr. Miles, and carried unanimously to grant Dr. Corkern's request and to remove all restrictions. A copy of the Board's Order Removing All Restrictions is

attached hereto and incorporated by reference.

**HEARING IN THE CASE OF JE SONG, M.D., SAUCIER, MISSISSIPPI MEDICAL
LICENSE NUMBER 17284, SUMMONS AND AFFIDAVIT**

Mr. Ingram requested that Leslie Ross, Investigations Supervisor, check to see if Dr. Song was in the building. Ms. Ross advised that Dr. Song had not signed in and that she could not locate him in the reception area.

Mr. Ingram advised that the Board had served Dr. Song with a Summons and Affidavit to appear at today's meeting. Mr. Ingram advised that he had received a call from an attorney and he advised him that the Board had not received an answer to the Summons and Affidavit.

Ms. Ross was called to the witness stand and was sworn in by the court reporter. Mr. Ingram briefly summarized the Summons and Affidavit and entered several exhibits into the record. Mr. Ingram requested that Ms. Ross provide the Board with events surrounding the Summons and Affidavit. Mr. Ingram advised that because Dr. Song failed to file an answer to the Summons and Affidavit, that the facts and charges set forth in the Affidavit are deemed confessed. Also, he stated that the Board has the right to take action because due process notice and an opportunity for a hearing were provided.

Motion was made by Dr. Miles, seconded by Dr. Crawford, and carried unanimously that the Board enter into Executive Session to discuss possible disciplinary action.

Upon a motion by Dr. Easterling, seconded by Dr. Miles, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board voted unanimously that they find Dr. Song guilty of the Counts outlined in the Summons and Affidavit and therefore his license is revoked. A copy of the Order revoking Dr. Song's Mississippi medical license is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Debra Williams, Court Reporter.

SURRENDERS

Dr. Craig advised that the Board had received six (6) Surrenders and asked if the Board wanted to vote on each one separately or collectively. The Board unanimously agreed to make the motion and vote on the surrenders collectively. Dr.

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Craig read the name of each physician and one (1) physician assistant and stated that each surrender was voluntary. Dr. Craig asked if any of the Board members had any questions concerning any of the surrenders before them. There being none, motion was made by Dr. Chance, and seconded by Dr. Miles, and it carried unanimously to accept all six (6) voluntary surrenders.

Mark Lavern Burtman, M.D., Columbus, Mississippi Medical License Number 18110, Surrender

Charles Martin Webber, M.D., Brandon, Mississippi Medical License Number 08445, Surrender

Jerry Mitchell, III, D.O., Quitman, Mississippi Medical License Number 12395, Surrender

Meera Sachdeva, M.D., Summit, Mississippi Medical License Number 18057, Surrender

Arthur T. Roach, P.A., Horn Lake, Mississippi Physician's Assistant License Number PA00025, Surrender

Jimmy Arnold Meeks, M.D. Tiplersville, Mississippi Medical License Number 06749, Surrender

PROPOSED AMENDMENT CHANGES OF REGULATION CONCERNING *THE PRACTICE OF PHYSICIAN ASSISTANTS* (CHAPTER 11)

Dr. Craig briefly discussed the proposed changes to the regulation concerning the practice of physician assistants. During the discussion, Rebecca Loveless, with the Mississippi Academy of Physician Assistants, stated that they had not seen the proposed changes and wanted to review and discuss before the Board voted. After further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that the Board refer the proposed regulation changes back to the Rules, Regulation and Legislative Committee for review and to include the physician assistants to ensure their input.

OTHER BUSINESS

EAST MISSISSIPPI STATE HOSPITAL

Dr. Craig discussed a letter that the Board had received from East Mississippi State Hospital concerning the institutional licenses for Drs. Ruben Cruz and Pacifico

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Ongkinco. Dr. Craig stated that the Executive Committee discussed the matter at their meeting yesterday, and unanimously agreed to bring to the full Board for further discussion. Dr. Craig advised that Ms. O'Neal had provided the Board with several options. After discussing, the Executive Committee feels that the hospital needs to initiate legislation that would exempt and/or provide protection for the institutional licensees in the counties where mental hospitals are located.

After further discussion, motion was made by Dr. Miles, seconded by Dr. Chance, and carried unanimously to advise East Mississippi State Hospital and other mental health facilities to seek legislation that will exempt the institutional licensees from Mississippi Code § 73-25-23.

MISSISSIPPI NURSES ASSOCIATION

Gayle Harrell, President of the Mississippi Nurses Association, addressed the Board and requested that the Board's licensure renewal form use the word "collaborate" instead of "supervise" as it was causing some concern among nurse practitioners and their collaborative physicians.


RECOGNITION OF BOARD MEMBER

Dr. Craig recognized Dr. Virginia Crawford for her work as director of Student Health Services at The University of Southern Mississippi, and the article that was recently printed in the Southern Miss Now paper.

Also, Dr. Craig recognized Thomas Washington, Director of Investigations, as President of the Mississippi chapter of NADDI and thanked him for the outstanding conference that was held in Jackson recently.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:25 p.m., with the next scheduled meeting for Thursday, November 10, 2011.



WILLIAM S. MAYO, D.O.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
September 22, 2011

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

KATRINA SPEARS BABCOCK, D.O.

AGREED ORDER OF REPRIMAND

WHEREAS, Katrina Spears Babcock, D.O., hereinafter referred to as "Licensee," is the current holder of License No. 21247, issued September 20, 2010, to practice medicine in the State of Mississippi;

WHEREAS, on June 2, 2011, Licensee was served a Summons and Affidavit via the U.S. Mail charging her with violations of the Mississippi Medical Practice Act, specifically Miss. Code Ann., Section 73-25-29, Subsections (3), (8)(b), (8)(d), (8)(f), and (13) and Section 73-25-83(a), as amended;

WHEREAS, on August 30, 2011, at the request of counsel for Licensee, a settlement conference was held for the purpose of determining whether Licensee could be admonished by the Executive Director of the Board and without necessity of the scheduled hearing before the Full Board;

WHEREAS, pursuant to the decisions reached in the settlement conference, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, consents to a FORMAL REPRIMAND with certain restrictions thereafter placed on her license to practice medicine in the State of Mississippi.

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with the consent of Licensee as signified by her joinder herein, does hereby formally REPRIMAND Licensee. Further Licensee's certificate to practice medicine in the state of Mississippi shall be subject to the following additional terms and conditions, to-wit:

1. Licensee must attend and successfully complete courses designated as AMA Category 1 Continuing Medical Education (CME) in **MEDICAL ETHICS** and in the **PROPER PRESCRIBING OF CONTROLLED SUBSTANCES** and approved in advance by the Executive Director of the Board. Following completion of each course, Licensee shall submit to the Board documentary proof of successful completion. This is in addition to the forty (40) hours of Category 1 CME requirements as cited in Chapter 07 of the Board's rules and Regulations.
2. Licensee will not practice medicine in the State of Mississippi for a period of one (1) year. During this one year period, Licensee shall be prohibited from utilizing the services of or collaborating with an Advanced Practice Registered Nurse or Physician Assistant in the State of Mississippi.
3. Pursuant to Miss. Code Ann., Section 73-25-30, Licensee shall pay all costs associated with the pending matter. Licensee shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty-five (45) days from the date Licensee receives the aforementioned notification. Receipt shall be deemed to have occurred upon placing the notification in the U.S. Mail postage prepaid and addressed to Licensee at 23242 Hatteras Street, Woodland Hills, California 91367.

Licensee understands that any violation of this Order, the rules and regulations of the Board or any Federal and State law governing the practice of medicine, shall constitute evidence of unprofessional conduct and will be grounds for further disciplinary action by the Mississippi State Board of Medical Licensure.


This **REPRIMAND** shall be subject to approval by the Mississippi State Board of Medical Licensure. If the Board fails to approve the Reprimand, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Reprimand is to avoid a hearing before the Board. In this regard, Licensee authorizes the

Board to review and examine any documentary evidence or materials concerning the Licensee prior to or in conjunction with its consideration of this Reprimand. Should this Reprimand not be accepted by the Board, it is agreed that presentation to and consideration of this Reprimand and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation or consideration in the resolution of these proceedings.

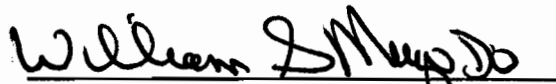
Licensee understands and expressly acknowledges that this Reprimand, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the State of Mississippi and is reportable to the National Practitioners Data Bank and the U.S. Drug Enforcement Administration (DEA), and the Board makes no representation as to the action, if any, which the DEA may take in response to this Order.

Recognizing her right to notice of charges specified against her, to have such charges adjudicated pursuant to Mississippi Code Ann., Section 73-25-27 (1972), to be represented therein by legal counsel of her choice and to a final decision rendered upon written findings of fact and conclusions of law, Katrina Spears Babcock, D.O., nonetheless, hereby waives her right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Reprimand.

Signed this the 9 day of September, 2011.


Katrina Spears Babcock, D.O.

ACCEPTED AND APPROVED this the 22 day of September, 2011, by the Mississippi State Board of Medical Licensure.


William S. Mayo, D.O., President
Mississippi State Board of Medical Licensure

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSEE

OF

THOMAS FRAZEE FLEISCHHAUER, M.D.

CONSENT ORDER

WHEREAS, THOMAS FRAZEE FLEISCHHAUER, M.D., 156 Oakleigh Drive, Batesville, Mississippi, hereinafter referred to as "Licensee," is the current holder of License No. 19602 for the practice of medicine in the State of Mississippi.

WHEREAS, the investigative staff of the Mississippi State Board of Medical Licensure, hereinafter referred to as "Board," has conducted a comprehensive investigation into the practice of Licensee and has documented evidence indicating that Licensee is in violation of the Rules and Regulations of the Board "Pertaining to Prescribing, Administering and Dispensing of Medication" by administering, dispensing and prescribing narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, otherwise than in the course of legitimate medical practice; failure to appropriately maintain patient records and documentation, and unprofessional conduct, including dishonorable conduct likely to deceive, defraud, or harm the public;

WHEREAS, such conduct, if established before the Board, constitutes violation of the Mississippi Medical Practice Act and specifically, Subsections (3), (8)(d) and (13) of the Miss. Code Ann. § 73-25-29, and § 73-25-83(a), for which

the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Board and in lieu thereof has agreed to execute this Consent Order subject to the terms, conditions, and restrictions as specified below;

NOW THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Licensee as signified by his joinder herein, does hereby place the following terms, conditions, and restrictions on Licensee's Certificate (No. 19602) to practice medicine in the State of Mississippi, to-wit:

1. Effective upon the acceptance of this Consent Order by the Board, Licensee's Certificate to practice medicine in the State of Mississippi is hereby suspended for a period of six (6) months. After the expiration of said six (6) months, Licensee shall have the right, but not the obligation, to petition the Board for the return of his Certificate to practice medicine in the State of Mississippi. Licensee shall not practice until he first appears before the Board to discuss his practice plans. Upon reinstatement of licensure, the Board reserves the right in its absolute discretion to impose any and all restrictions which it deems necessary.
2. During the six (6) month period of suspension, Licensee shall enroll and successfully complete AMA Category 1 CME (Continuing Medical Education) courses in the areas of (1) Professional Boundaries between a Licensee and his patients; (2) Prescribing of Controlled Substances; (3)

Proper Record Keeping; and (4) Medical Ethics. All CME courses shall be approved in advance by the Executive Director of the Board. Following completion of each course, Licensee shall submit to the Board documentary proof of successful completion. This is in addition to the forty (40) hours of Category 1 CME requirements as cited in Chapter 07 of the Board's Rules and Regulations.

3. Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann. § 73-25-30, with said amount not to exceed \$10,000. Licensee shall be advised of the total assessment by separate notification, and shall tender to the Board a certified check or money order on or before forty (40) days from the date the assessment is mailed to Licensee via U. S. Mail at the address shown above.
4. In the event Licensee should leave Mississippi to reside outside the state, Licensee shall, within ten (10) days prior to departing, notify the Board in writing of the dates of departure and return. Periods of residency outside Mississippi will not apply to the reduction of time restrictions enumerated in this Order, or lessen the duration of said restrictions.
5. Licensee shall also surrender his DEA Certificate, (Number BF9663952) for the period of time his license to practice medicine is suspended by the Board.

Licensee understands and expressly acknowledges that this Consent Order shall constitute a public record of the State of Mississippi. Licensee further understands and acknowledges that the Board shall provide a copy of this Order

to, among others, the National Practitioners Data Bank, and the U. S. Drug Enforcement Administration (DEA), and the Board makes no representation as to actions, if any, which the DEA may take in response to this Order.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. § 73-25-1 et seq., to be represented therein by legal counsel of his choice, and a final decision based on written findings of fact and conclusions of law, THOMAS FRAZEE FLEISCHHAUER, M.D., nonetheless hereby waives his right to notice and formal adjudication of charges, thereby placing the above enumerated terms, conditions, and restrictions on his license to practice medicine in the State of Mississippi.

ACCEPTED, this the 22nd day of September, 2011.

By: Thomas F. Fleischhauer, M.D.
THOMAS FRAZEE FLEISCHHAUER, M.D.

EXECUTED this the 22 day of September, 2011.

Mississippi State Board of Medical Licensure

By: William S. Mayo, D.O.
William S. Mayo, D.O., President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIANS LICENSE

OF

RAY A. HARRON, M.D.

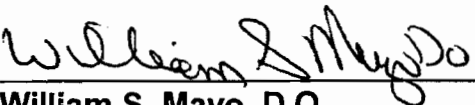
ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on September 22, 2011, before the Mississippi State Board of Medical Licensure, in response to a request for Continuance of the hearing set for this date made by Ray A. Harron, M.D., (hereinafter "Licensee"), through his attorney, Edward Blackmon, Jr. After consideration of the matter, the Board finds Licensee's motion to be well taken.

IT IS, THEREFORE, ORDERED, that this matter is continued until November 10, 2011.

SO ORDERED, this the 22nd day of September, 2011.

Mississippi State Board of Medical Licensure



William S. Mayo, D.O.
President

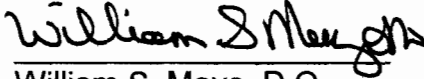
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 22, 2011**

AGENDA ITEM: XVI. Hearing in the case of John L. Herzog, M.D., request for reinstatement

In a motion made by Dr. Aycock, seconded by Dr. Crawford, in a vote of six (6) for, one (1) against, and two (2) absent, the Board finds that Dr. Herzog has met the requirements to have his invasive cardiology privileges reinstated by fulfilling the requirements set forth in the Order of the Board dated March 24, 2011.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.				X
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.		X		
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.				X
Charles D. Miles, M.D.	X			

With a motion by Dr. Crawford, seconded by Dr. Chance, the Board came out of Executive Session.



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

JOHN LEONARD HERZOG, M.D.

ORDER REMOVING ALL RESTRICTIONS

THIS MATTER came on regularly for consideration on September 22, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of John Leonard Herzog, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Board Order dated March 24, 2011. Licensee was immediately prohibited from performing any invasive cardiac procedures until such time as he 1) successfully completed a clinical competency assessment in invasive cardiology procedures; 2) completed an interpretation training class and passed the competency exam; and 3) addressed the educational needs as recommended by the Center for Personalized Education for Physicians. In support of Licensee's request for removal of restrictions, proof of successful completion of the aforementioned conditions was submitted to the Board indicating that Licensee has complied with all the terms of the aforesaid Board Order. Therefore, the Board, after hearing said request, finds that Licensee has met the requirements set forth in the Order of the Board.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

IT IS FURTHER ORDERED, that pursuant to Miss Code Ann. Sections §73-25-27 and §73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon John Leonard Herzog, M.D.

ORDERED, this the 22nd day of September, 2011.

Mississippi State Board of Medical Licensure


William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

H. LEE RICHARDSON, JR., M.D.

ORDER REMOVING ALL RESTRICTIONS

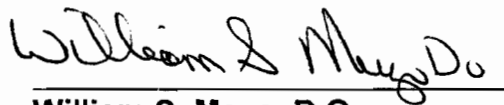
THIS MATTER came on regularly for consideration on September 22, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of H. Lee Richardson, Jr., M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Board Order dated March 24, 2011. The Board, after hearing said request, finds the same to be well-taken.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

IT IS FURTHER ORDERED, that pursuant to Miss Code Ann. Sections §73-25-27 and §73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon H. Lee Richardson, Jr., M.D.

ORDERED, this the 22nd day of September, 2011.

Mississippi State Board of Medical Licensure



**William S. Mayo, D.O.
President**

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

ANDREW J. PETERSON, D.O.

ORDER REMOVING ALL RESTRICTIONS

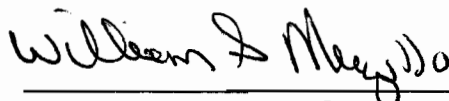
THIS MATTER came on regularly for consideration on September 22, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of Andrew J. Peterson, D.O., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Board Order dated September 16, 2010. The Board, after hearing said request, finds the same to be well-taken.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

IT IS FURTHER ORDERED, that pursuant to Miss Code Ann. Sections §73-25-27 and §73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon Andrew J. Peterson, D.O.

ORDERED, this the 22nd day of September, 2011.

Mississippi State Board of Medical Licensure



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

ROBERT STEPHEN CORKERN, M.D.

ORDER REMOVING ALL RESTRICTIONS

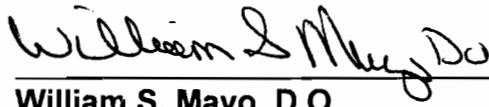
THIS MATTER came on regularly for consideration on September 22, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of Robert Stephen Corkern, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Board Order dated July 22, 2010. The Board, after hearing said request, finds the same to be well-taken.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

IT IS FURTHER ORDERED, that pursuant to Miss Code Ann. Sections §73-25-27 and §73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon Robert Stephen Corkern, M.D.

ORDERED, this the 22nd day of September, 2011.

Mississippi State Board of Medical Licensure



William S. Mayo, D.O.
President

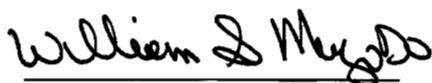
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 22, 2011**

AGENDA ITEM: XXI. Hearing in the case of Je Song, M.D.

In a motion made by Dr. Aycock, seconded by Dr. Chance, in a vote of seven (7) for and two (2) absent, the Board finds Dr. Song guilty of the Counts outlined in the Summons and Affidavit and therefore his license is revoked.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.				X
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.				X
Charles D. Miles, M.D.	X			

With a motion by Dr. Easterling, seconded by Dr. Miles, the Board came out of Executive Session.



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JE SONG, M. D.

ORDER

THIS MATTER came on regularly for hearing on September 22, 2011, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Miss. Code Ann. (1972). The Board initiated these proceedings on July 29, 2011, by issuance of a Summons and Affidavit against Je Song, M.D. (hereinafter "Licensee") setting forth a total of three (3) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee failed to appear either in person or by counsel. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for all proceedings were: William S. Mayo, D.O., S. Randall Easterling, M.D., Larry B. Aycock, M.D., William B. Jones, M.D., Rickey L. Chance, D.O., Virginia M. Crawford, M.D., and Charles D. Miles, M.D.

Based upon the evidence and testimony presented, the Board renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACTS

I.

Licensee is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 17284. Said license expired on June 30, 2011, by virtue of Licensee's failure to renew the same.

II.

Licensee has received due notice of the charges and the hearing set for this date. Specifically, on July 29, 2011, at 1:25 a.m., Licensee was personally served process by Board Investigator, Leslie B. Ross, who delivered to Licensee, then in custody of the United States Drug Enforcement Administration, the Summons and Affidavit filed herein. Licensee has failed to file an answer; failed to request a continuance; and has failed to provide any response to the charges as filed herein.

III.

On or about January 25, 2011, the Board's Investigative staff was contacted by a Task Force Officer (TFO) of the United States Drug Enforcement Administration (DEA) concerning the status of Licensee's medical license. The TFO stated that DEA Agents had received information indicating that Licensee was selling controlled substance prescriptions for drugs such as Oxycodone, Roxicodone, Hydrocodone, and Xanax in exchange for one hundred fifty dollars (\$150.00) per prescription to a known prescription drug dealer. The drug dealer would provide Licensee with names of people and Licensee would issue prescriptions for controlled substances in the names provided to him. These transactions often occurred at a casino on the Mississippi Gulf Coast where Licensee often frequented. From January 2011, through May 2011, members of the Investigative Division of the Board worked with DEA to learn more about Licensee's illicit prescription operation and to observe the prescription transactions.

IV.

From February 2011, through June 2011, the Board received numerous telephone calls from Mississippi Gulf Coast pharmacists advising that the telephone number printed on Licensee's prescription blank was no longer in service, and, therefore, the pharmacists were unable to verify the prescriptions presented for dispensing.

V.

As a result of the joint investigation by the DEA and the Investigative Division of the Board, multiple instances were documented wherein Licensee sold controlled substance prescriptions outside the scope of professional practice. One of such instances occurred on or about May 19, 2011. On this date, Licensee issued three (3) separate prescriptions for Roxycodone, a Schedule II controlled substance; said prescriptions issued by Licensee at a Gulf Coast restaurant parking lot and without a good faith prior examination or any medical indication thereof. Licensee never saw the patients to whom the prescriptions were issued. The prescriptions were issued through a third party who was aiding and abetting the transaction. The cooperative patient paid the third party abettor the stated price for the prescriptions who then went to Licensee to secure the prescriptions. The prescriptions were sold without any physical examination or prior determination of the medical indication for the controlled substances prescribed. In essence, Licensee was illegally distributing controlled substances in exchange for monetary gain.

CONCLUSIONS OF LAW

Based on the Finding of Facts as enumerated above, Licensee is guilty of Counts One, Two and Three of the Affidavit as filed with the Board. Specifically, Licensee is guilty of administering, dispensing or prescribing a narcotic drug, or any other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice in violation of Miss. Code Ann., §73-25-29(3); has failed to comply with Chapter 25, Section 405 of the Board's Rules and Regulations Pertaining to the Prescribing, Administering and Dispensing of Medication as a result of Licensee prescribing a controlled substance or other drug having addiction-forming or addiction-sustaining liability without a good faith prior examination and medical indication therefore, in violation of Miss. Code Ann.,

§73-25-29(13); and is guilty of unprofessional conduct, which includes, but is not limited to any dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Miss. Code Ann., §73-25-29(8)(d) and §73-24-83(a) as amended.

ORDER

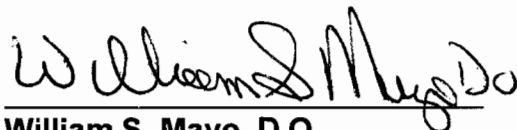
IT IS THEREFORE, ORDERED that medical License No. 17284, previously issued to Licensee is hereby revoked.

IT IS FURTHER ORDERED, that Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., §73-25-30. Licensee shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date of mailing of the notification.

IT IS FURTHER ORDERED, that pursuant to §73-25-27, a copy of this Determination and Order shall be sent by registered mail or personally served upon Licensee.

SO ORDERED, this the 22nd day of September, 2011.

Mississippi State Board of Medical Licensure



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MARK LAVERN BURTMAN, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, MARK LAVERN BURTMAN, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 18110 issued on June 23, 2003, to practice medicine in the State of Mississippi;

WHEREAS, by virtue of that certain Consent Order dated September 18, 2008, Licensee's certificate to practice medicine in the State of Mississippi was suspended for numerous violations of Chapter 25 of the Board's Rules and Regulations, "Pertaining to Prescribing, Administering, and Dispensing of Medication." The suspension was stayed after expiration of three (3) months, subject to certain terms and conditions, including prohibition against the use of any medication for the treatment of obesity; weight loss or weight control; practice monitoring; continuing medical education; and other requirements;

WHEREAS, during August 2010 - May 2011, the Investigative Staff of the Board conducted a comprehensive investigation into the medical practice of Licensee in Columbus, Mississippi, and documented evidence indicating that Licensee has violated the Rules and Regulations of the Board, "Pertaining to Prescribing, Administration, and Dispensing of Medication," is guilty of unprofessional conduct which includes being guilty of dishonorable or unethical conduct likely to deceive, defraud or harm the public; and has administered, dispensed or prescribed narcotic drugs or other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice;

WHEREAS, such conduct is in violation of the Mississippi Medical Practice Act, specifically Miss. Code Ann., Section 73-25-29(3), (8)(d), (13) and Section 73-25-83(a), as amended, for which the Mississippi State Board of Medical Licensure may place Licensee's

medical license on probation, the terms of which may be set by the Board, suspend his right to practice medicine for a time deemed proper by the Board, revoke said license, or take any other action the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid an evidentiary hearing before the Board by voluntarily relinquishing his right to practice medicine in the State of Mississippi:

NOW, THEREFORE, Licensee hereby voluntarily surrenders his medical license (Number 18110) to practice medicine in the State of Mississippi. Licensee understands that this is an unconditional surrender, is reportable as disciplinary action to the National Practitioner Data Bank, and is a public record of the State of Mississippi. In the event Licensee later decides to practice medicine in the State of Mississippi, it will be necessary for him to submit a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

WHEREAS, pursuant to Miss. Code Ann., Section 73-25-30, Licensee shall pay all such investigative costs as are allowed by law. Licensee shall be advised of the total assessment by separate written notification, and shall have a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty-five (45) days from the date Licensee receives the aforementioned notification.

EXECUTED this the 21st day of June, 2011.

Cindy C. Strickland
WITNESS


MARK/LAVERN BURTMAN, M.D.

ACCEPTED AND APPROVED this the 22nd day of September 2011, by the
Mississippi State Board of Medical Licensure.

William S Mayo DO

**WILLIAM S. MAYO, D.O., President
Mississippi State Board of
Medical Licensure**

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CHARLES MARTIN WEBBER, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, CHARLES MARTIN WEBBER, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 08445 issued on August 8, 1978, to practice medicine in the State of Mississippi;

WHEREAS, Licensee currently has a matter pending before the Mississippi State Board of Medical Licensure and wishes to avoid an evidentiary hearing;

WHEREAS, Licensee has decided to retire by surrendering his Mississippi medical license;

NOW, THEREFORE, Licensee hereby voluntarily surrenders his medical license (Number 08445) to practice medicine in the State of Mississippi. Licensee understands that this is an unconditional surrender, is reportable to the National Practitioner Data Bank, and is a public record of the State of Mississippi. In the event Licensee later decides to practice medicine in the State of Mississippi, it will be necessary for him to submit a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

EXECUTED this the 14th day of July, 2011.

C.M. Webber, MD
Charles Martin Webber, M.D.

ACCEPTED AND APPROVED this the 22nd day of September, 2011 by the
Mississippi State Board of Medical Licensure.

William S Mayo
William Mayo, D.O., President
Mississippi State Board of Medical Licensure

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JERRY MITCHELL, III, D.O.

SURRENDER OF MEDICAL LICENSE

WHEREAS, I, Jerry Mitchell, III, D.O., hereinafter referred to as "Licensee," am the current holder of License Number 12395, issued in February 20, 1990, to practice medicine in the State of Mississippi;

WHEREAS, It is my wish to surrender my current license (No. 12395) to practice medicine in the State of Mississippi;

NOW, THEREFORE, I hereby voluntarily surrender my medical license (No. 12395) to practice medicine in the State of Mississippi said surrender is effective immediately. I understand that this is an unconditional surrender, is reportable as disciplinary action to the National Practitioner Data Bank, and is a public record of the State of Mississippi. Further, I understand that in the event I later decide to practice medicine in the State of Mississippi, it will be necessary for me to make application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

EXECUTED this the 28th day of July, 2011.

Frances E. Carrillo
Witness

Jerry Mitchell III D.O.
Jerry Mitchell, III, D.O.

ACCEPTED AND APPROVED this the 22nd day of September 2011, by the
Mississippi State Board of Medical Licensure.

William S. Mayo
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MEERA SACHDEVA, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, MEERA SACHDEVA, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 18057 issued on May 12, 2003, to practice medicine in the State of Mississippi;

WHEREAS, from April 2011 - July 2011, the Investigative Staff of the Mississippi State Board of Medical Licensure, hereinafter referred to as "Board," conducted a comprehensive investigation into the medical practice of Licensee in Summit, Mississippi, and has in its possession evidence which, if true, indicates that Licensee is in violation the Rules and Regulations of the Board "Pertaining to Prescribing, Administering and Dispensing of Medication", assisting an unlicensed person or persons in the practice of medicine, submission of a false, fraudulent or forged document in connection with a specific requirement in the licensing renewal process, thereby causing the knowing and willful submission of false information by Licensee on the application for renewal of her Mississippi medical license, and, if such allegations are true, Licensee would be guilty of unprofessional, dishonorable or unethical conduct likely to deceive, defraud or harm the public;

WHEREAS, on July 20, 2011, and pursuant to their authority, representatives from the Mississippi State Department of Health ordered Licensee's clinic, Rose Cancer

Center, closed due to a "significant public health concern." This concern was based upon several reports of suspected and confirmed blood-related infections in patients receiving health care services at Licensee's clinic. The clinic remains closed until such time as the Mississippi State Department of Health deems the clinic safe to reopen;

WHEREAS, such conduct, if established in a due process hearing before the Board, constitutes violation of the Mississippi Medical Practice Act, specifically Miss. Code Ann., Section 73-25-29(3), (8)(b), (8)(d), (8)(f) and (13), and Section 73-25-83(a) as amended, for which the Mississippi State Board of Medical Licensure may suspend Licensee's right to practice medicine for a time deemed proper by the Board, revoke said license, or take any other action the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid an evidentiary hearing before the Board by voluntarily relinquishing her right to practice medicine in the State of Mississippi:

NOW, THEREFORE, Licensee hereby voluntarily surrenders her medical license (Number 18057) to practice medicine in the State of Mississippi. Licensee understands that this surrender is reportable as disciplinary action to the National Practitioner Data Bank, and is a public record of the State of Mississippi. In the event Licensee later decides to practice medicine in the State of Mississippi, it will be necessary for her to submit a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

It is expressly understood and agreed that by executing this Surrender of License, the undersigned Meera Sachdeva, M.D. is not admitting to any wrongful misconduct, malpractice or violation of law.

EXECUTED this the 26th day of August, 2011.

M Sachdeva

MEERA SACHDEVA, M.D.

Ray C. Burr

WITNESS

ACCEPTED AND APPROVED this the 29th day of August 2011, by
the Mississippi State Board of Medical Licensure.

H. Vann Craig

H. Vann Craig, M.D.,
Executive Director
Mississippi State Board of
Medical Licensure

SURRENDER OF PHYSICIAN'S ASSISTANT LICENSE

WHEREAS, I, ARTHUR T. ROACH, PA-C, hereinafter referred to as "Licensee," am the current holder of Physician's Assistant License Number PA00025, issued September 17, 2002, to practice as a Physician's Assistant in the State of Mississippi;

WHEREAS, on August 10, 2011, Licensee was arrested by agents with the U. S. Drug Administration, (DEA) as the result of an Indictment issued through the United States District Court for the Northern District of Mississippi in Case Number 2:11CR104; said indictment charging Licensee with violation of 18 U.S.C. § 1349, Conspiracy to Commit Health Care Fraud; 18 U. S. C § 1347, Health Care Fraud; 18 U. S. C. § 287, False Claims; and 18 U. S. C. §2, Aiding and Abetting.

I understand this is an unconditional surrender, and is reportable as disciplinary action to the National Practitioner Data Bank, the Federation of State Medical Boards, the Drug Enforcement Administration, and other entities. In the event I later decide to practice as a Physician's Assistant in the State of Mississippi, I understand it will be necessary for me to make a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation or any information which it may later obtain as part of the consideration of any application.

EXECUTED this the 28th day of August, 2011.

Arthur T. Roach
Arthur T. Roach, PA - C

[Signature]
Witness

ACCEPTED AND APPROVED, this the 28th day of August, 2011, by
the Mississippi State Board of Medical Licensure.

H. Vann Craig
H. Vann Craig, M.D.
Executive Director

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICNSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JIMMY ARNOLD MEEKS

SURRENDER OF MEDICAL LICENSE

WHEREAS, JIMMY ARNOLD MEEKS, M. D., hereinafter referred to as "Licensee," is the current holder of Licensee Number 06749 issued August, 9, 1973, to practice medicine in the State of Mississippi;

Whereas, the Investigative Division of the Mississippi State Board of Medical Licensure initiated an investigation after it received information that Licensee had obtained controlled substances by issuing prescriptions to himself and obtaining controlled substances by encouraging other practitioners to issue him prescriptions for controlled substances for personal use;


THEREFORE, I hereby voluntarily surrender medical license (06749) to practice medicine in the State of Mississippi, said surrender effective the 19th day of September, 2011.

I understand that this is an unconditional surrender, is reportable to the National Practitioner Data Bank, and is a public record of the State of Mississippi. In the event I later decide to practice medicine in the State of Mississippi, it will be necessary for me to submit a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including the facts developed during the current investigation, as part of the consideration of any application.

EXECUTED this the 19th day of September, 2011.


Jimmy Arnold Meeks, M.D.

ACCEPTED AND APPROVED this the 22nd day of September, 2011, by the
Mississippi State Board of Medical Licensure.


William S. Mayo, D. O., President
Mississippi State Board of Medical Licensure

NOVEMBER 2011

**MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
NOVEMBER 09, 2011**

MEMBERS PRESENT:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary

ALSO PRESENT:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Jonathan Dalton, Investigator, Investigative Division
Sherry H. Pilgrim, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, November 09, 2011, at 1:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

PERSONAL APPEARANCES BY MARK A. CONDON, M.D., CHIEF OF STAFF, AND SCOTT SMITH, CHIEF EXECUTIVE OFFICER, WITH CENTRAL MISSISSIPPI MEDICAL CENTER

Dr. Craig advised that per the Executive Committee's request at the September 21, 2011, Executive Committee meeting that Dr. Condon and Mr. Smith had been invited to appear at the meeting today. Dr. Craig advised that Dr. Condon and Mr. Smith were associated with Central Mississippi Medical Center (CMMC) and had been invited to discuss their failure to report discipline of a physician on staff at CMMC. Dr. Craig advised that he had received a call on November 8, 2011, from Stephen Kruger, attorney for CMMC, advising that Dr. Condon had surgery scheduled and would not be attending and that he would be appearing for the hospital to address the Executive Committee for both Dr. Condon and Mr. Smith.

Stan Ingram, Complaint Counsel for the Board, introduced Mr. Kruger. Dr. Craig briefly discussed why Dr. Condon and Mr. Smith had been invited to appear at today's meeting. Dr. Craig advised that the letters were sent inviting them in mid October and

EXECUTIVE COMMITTEE MINUTES

November 09, 2011

Page 2

that he was concerned with the fact that the Board had not been notified earlier that they would not be attending the meeting. Mr. Kruger addressed the Executive Committee and explained that Dr. Condon was not the Chief of Staff at the time the disciplinary matter occurred, and that he was the attorney for several hospitals that followed his instructions on reporting. Dr. Easterling advised that to ignore the Board's request and turn over to counsel to handle is deemed inappropriate.

After further discussion, relative to the law and reporting matters to comply with the law, Mr. Kruger explained how he interrupted the law and that if it was handled incorrectly, then he was the one that had misinformed the hospital. There was further discussion concerning the redacted information that the Board had requested on the physician involved. Mr. Ingram stated the Board is exempted from HIPAA and provisions provide for the Board to receive the requested information. Mr. Kruger asked for clarification of 73-25-28, which Mr. Ingram provided.

Before departing, Mr. Kruger advised that he would relay the Board's concern to Dr. Condon and Mr. Smith concerning their not appearing today as requested. Dr. Mayo thanked Mr. Kruger for coming today.

The Executive Committee discussed the issue further and discussed reviewing the rules and regulations concerning this area to see if they need to be addressed. The Executive Committee requested that Dr. Craig research this matter further.

Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to issue a non-public Letter of Concern to Dr. Condon addressing the Board's concern with his failing to appear as requested.

PERSONAL APPEARANCE BY MICHAEL D. RALSTON, M.D., MEMPHIS, TN, MISSISSIPPI MEDICAL LICENSE NUMBER 10319

Dr. Craig advised that Dr. Ralston had been invited to address his supervising of Arthur Roach, PA, in Horn Lake. Dr. Craig advised that Mr. Roach had voluntarily surrendered his license earlier. Dr. Craig advised that the Board had information that stated that Mr. Roach was the number one prescriber of Phentermine in the state. Dr. Craig advised that Dr. Ralston lives and has a practice in Tennessee and that Mr. Roach's clinic was in Mississippi. Dr. Craig stated that Dr. Ralston had been invited to address the Board concerning how he had handled his supervising of the PA. Dr. Craig advised that Dr. Ralston has been on Mr. Roach's protocol since 2002, and basically Mr. Roach was practicing independently.

Mr. Ingram introduced Lawson Hester and Jim Pettis, attorneys for Dr. Ralston, as well as introducing Dr. Ralston. When Dr. Ralston joined the meeting, Mr. Ingram

EXECUTIVE COMMITTEE MINUTES

November 09, 2011

Page 3

advised that he had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference.

Mr. Hester addressed the Board and advised that Dr. Ralston was the supervising physician on Mr. Roach's protocol, but that Dr. Ralston had not been to Horn Lake for some time. It appears that Mr. Roach was selecting the records for which he had led Dr. Ralston to believe was 100% of the patients seen each month. Mr. Hester stated that they had brought the records that Mr. Roach had provided and had a summary providing how many Dr. Ralston had reviewed from the period December 2010 through July 2011.

The Executive Committee advised that a physician assistant is an extension of the physician and that the physician assistant is to practice with the physician. Dr. Ralston admitted that he had only visited the clinic approximately ten (10) times in two (2) years due to the fact that Mr. Roach would come and bring the charts to him to review advising that he had brought 100% of the charts.

Mr. Hester stated that the Board may have evidence that Mr. Roach saw patients that Dr. Ralston was not aware of at the time. Mr. Ingram briefly covered Mr. Roach's Prescription Monitoring Program (PMP) report showing that Mr. Roach had written 856 prescriptions for controlled medications during the month of July. Dr. Ralston advised that he does not see patients at the Horn Lake clinic and has not in some time. Dr. Ralston stated that Mr. Roach led him to believe that he did not need to come down to the clinic and would in turn bring what he stated was 100% of the patient charts for Dr. Ralston to review. The Executive Committee asked Dr. Ralston if Mr. Roach was selecting the charts and Dr. Ralston replied, "yes". Dr. Ralston stated that he did not understand the protocol and thought that he was going above and beyond the Board's requirements.

The attorneys for Dr. Ralston advised that due to the federal indictment against Mr. Roach, that Dr. Ralston was assisting the Federal government by testifying against Mr. Roach. Dr. Ralston advised that his name was being stamped on reports and that he had not given permission for a stamp to be made and did not have knowledge of the stamp until after the fact. Mr. Ingram asked Dr. Ralston if during 2011 had he ever put his signature or authorized his DEA number on prescriptions for Phentermine and Dr. Ralston stated, "no".

Dr. Mayo thanked Dr. Ralston and his attorneys for appearing and providing the information today before they exited the meeting.

After further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to offer Dr. Ralston a Consent Order charging him

EXECUTIVE COMMITTEE MINUTES

November 09, 2011

Page 4

with unprofessional conduct and prohibiting his association with an intermediate level practitioner for two (2) years.

THE EXECUTIVE COMMITTEE RECESSED AT 3:30 P.M. AND RETURNED AT 3:35 P.M.

Before the next item on the agenda, Mr. Ingram advised that Mr. Pettis had told him during the break that Dr. Ralston was not aware of the stamp and only became aware during testimony before the grand jury. Mr. Pettis advised that Dr. Ralston stated that the stamp was forged.

PERSONAL APPEARANCE BY JOHN ROBERT SELLARS, M.D., MEMPHIS, TN, APPLICANT

Dr. Craig briefly discussed Dr. Sellars and advised that due to his concerns about the liability cases, particularly pertaining to laparoscopic surgery, that he had invited him to appear to address the Executive Committee.

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Sellars when he joined the meeting and advised that he had executed a written agreement for this informal meeting, a copy of which is attached and incorporated by reference. Mr. Ingram advised that Dr. Sellars was here today without counsel.

Dr. Sellars addressed the Executive Committee and addressed the liability cases that had been filed against him. Dr. Mayo requested that Dr. Sellars address the laparoscopic surgery reports in detail. The Executive Committee asked Dr. Sellars if he planned to perform laparoscopic surgeries and he stated that he plans on performing laparoscopic gall bladder surgeries.

Dr. Sellars advised that he has been out of practice nearly a year due to health issues that he has been through, including acute renal failure and eye impairment problems. Dr. Sellars stated that he plans to work in an emergency room and will basically handle whatever comes in during his shift.

Dr. Mayo thanked Dr. Sellars for appearing and told him that the Executive Committee would discuss the matter and advise him of their decision.

After further discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously that due to Dr. Sellars' health concerns that he be asked to contact CPEP (Center for Personalized Education for Physicians) in Colorado for a cognitive evaluation as well as have a physical exam to evaluate his fine motor skills. Also, Dr. Sellars should have an eye exam performed by an ophthalmologist to evaluate his visual activity and depth perception.

EXECUTIVE COMMITTEE MINUTES

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FINDINGS OF EXAMINING COMMITTEE ON EUGENE O'HEA, M.D., WIGGINS, MISSISSIPPI MEDICAL LICENSE NUMBER 14808

Dr. Craig provided the Executive Committee with an update on Dr. O'Hea and Acumen's report showing no cognitive problems or issues of prescribing, but Acumen suggested another evaluation in a year to see if there are any changes. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to accept the recommendations of the Examining Committee.

SCOTT HULL BOSWELL, M.D., JASPER, AL, MISSISSIPPI MEDICAL LICENSE NUMBER 11645, PROPOSED CONSENT ORDER

Dr. Craig advised that Dr. Boswell was not at the meeting today but that he had agreed to sign a Consent Order mirroring the actions taken by the Alabama Medical Board. Dr. Craig briefly discussed the proposed Consent Order and stated that if Dr. Boswell elects not to sign the proposal that he will be summoned for a hearing before the Board.

Motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to approve the Consent Order contingent upon Dr. Boswell's signature providing him five (5) days to accept and return.

EMAIL REQUEST FROM LISA FREEMAN CONCERNING OFFICE SURGERY USING TUMESCENT LOCAL ANESTHESIA

For informational purposes, Dr. Craig briefly discussed an email request from the Hattiesburg Clinic but stated that the matter has been resolved and that the Hattiesburg Clinic now agrees that the request falls under Level II Office Based Surgery. After discussion, the Executive Committee unanimously agreed that using tumescent local anesthesia falls under Level II Office Based Surgery.

LETTER FROM BOARD OF NURSING

For informational purposes, Dr. Craig discussed a letter that the Board had received from the Board of Nursing concerning speciality problems between physicians and nurse practitioners.

OTHER BUSINESS

EMAIL FROM KASEY MOORE

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Page 6

Dr. Craig briefly discussed the email from Ms. Kasey Moore concerning a complaint that she had filed with the Board regarding Dr. Adam Lewis and his treatment of her husband and his subsequent death. Dr. Craig said that he felt the Executive Committee was aware of the article concerning Dr. Lewis in the Wall Street Journal and the patient that had died after having the 360-degree spinal fusions. Dr. Craig stated that Ms. Moore wants the Board to say the treatment was malpractice.

After a brief discussion, the Executive Committee unanimously decided that the Board does not interject itself into a pending or anticipated medical malpractice case and will only initiate an investigation where there is evidence of a pattern of substandard care or danger to the public involved.

ROBERT LEWIS BRUNSTON, JR., M.D., OCEAN SPRINGS, MISSISSIPPI MEDICAL LICENSE NUMBER 17394

Dr. Craig briefly discussed a Consent Order that had been sent and signed by Dr. Brunston. Dr. Craig advised that Dr. Brunston's license is being placed on probation, subject to terms and conditions. Dr. Craig stated that Dr. Brunston will be reporting for his sentence at an institution designated by the Bureau of Prisons on November 29, 2011, to serve his sentence after pleading guilty to one count of the Indictment for willful failure to file tax returns for three (3) years. A copy of the Consent Order is attached hereto and incorporated by reference.

The Executive Committee unanimously agreed to accept the proposed Consent Order.

JOHN DEE DIAL, M.D., MADISON, MISSISSIPPI MEDICAL LICENSE NUMBER 09551

Dr. Craig briefly discussed a voluntary surrender that the Board had received after an investigation into the medical practice of Dr. Dial. The Executive Committee unanimously agreed to accept the Surrender of Dr. Dial's license. A copy of the Surrender is attached hereto and incorporated by reference.

REVIEW OF NOVEMBER 10, 2011, BOARD AGENDA

Dr. Craig briefly reviewed the agenda for tomorrow's meeting.

EXECUTIVE COMMITTEE MINUTES

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ADJOURNMENT

There being no further business, the meeting adjourned at 3:50 p.m.



WILLIAM S. MAYO, D.O.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
November 09, 2011



**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY CURRENT LICENSEE**

I, Michael D. Ralston, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss the pending investigation of my license by the Board, the grounds if any for disciplinary action, and possible resolution of the same. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for disciplinary action against my license.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

with legal counsel present (name of counsel: Lawson Hester, +
Jim Pettis)
 without legal counsel present

EXECUTED, this the 9th day of November, 2011.

Witness: 

LICENSEE
MIKE RALSTON MD
NAME PRINTED

**AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE
BY APPLICANT FOR LICENSURE**

I, John Robert Sellars, M.D., have requested an opportunity to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss my pending application for a Mississippi medical license, the current investigation being conducted by the Board, possible grounds for denial, and possible resolution of the matter. It is the purpose of the informal meeting to discuss the facts of the case, to give me an opportunity to ask questions of the Committee or its staff, and to give the Committee or its staff an opportunity to ask questions of me. Because the meeting is informal, no disciplinary action will be taken without my express written consent. In so doing, I have been advised and understand the following:

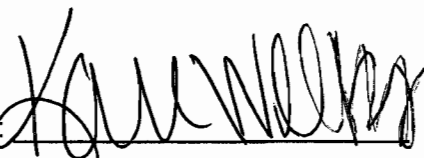
1. During the meeting, the Executive Committee may or may not be represented by legal counsel. Notwithstanding, I understand that I have a right, if I so choose, to employ legal counsel and have counsel present during the informal meeting.
2. I authorize the Committee Members to review and examine any statements, documentary evidence, or materials concerning the possible grounds for denial of licensure during my informal appearance.
3. Because the purpose of my appearance is to avoid a hearing before the Board, I agree that presentation to and consideration by the Committee of any facts, matters, and documents pertaining to my case shall not unfairly or illegally prejudice the Committee members from further participation or consideration in the event a formal show cause hearing is later conducted. Stated differently, in the event the pending matter is not resolved following my appearance before the Committee, I will not object to any of the Committee members from further participating in subsequent meetings or hearings that may be conducted in relation to this matter.
4. By signing my name in the space provided below, I hereby authorize the Executive Committee to proceed with the informal appearance, subject to the stipulations and understandings as noted above. I have elected to proceed:

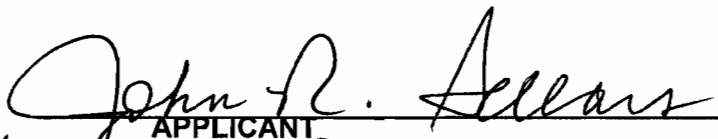
___ with legal counsel present (name of counsel: _____)

without legal counsel present

EXECUTED, this the 9 day of Nov., 2011.

Witness:




APPLICANT

John R. Sellars
NAME PRINTED

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

SCOTT HULL BOSWELL, M.D.

CONSENT ORDER

WHEREAS, Scott Hull Boswell, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 11645, issued April 5, 1988, for the practice of medicine in the State of Mississippi;

WHEREAS, on the 24th day of August, 2011, a hearing was held by the Medical Licensure Commission of Alabama on an Administrative Complaint filed by the Alabama State Board of Medical Examiners in Case Number 11-001, seeking to revoke or otherwise discipline the license to practice medicine in Alabama of Licensee. Based on the foregoing findings of fact, the Medical Licensure Commission made the following conclusions of law: that Licensee has committed unprofessional conduct as defined in Ala Code § 34-24-360 and in the rules and regulations promulgated by the Commission, a violation of Ala. Code §34-24-360(2) specifically Commission Rules 545-X-4-.06(11) and (22), a violation of any rules promulgated by the Board or Commission and Board Rule 540-X-4-.07, Guidelines for the Use of Controlled Substances for the Treatment of Pain; Licensee had practiced medicine in such a manner as to endanger the health of his patients, a violation of Ala. Code §34-24-360(3); Licensee distributed by prescribing, dispensing, furnishing or supplying controlled substances to persons or patients for reasons other than a legitimate medical purposed, a violation of Ala. Code §34-24-360(8); Licensee committed gross

diagnostic tests or medical or surgical services in violation of Ala. Code §34-24-360(11); inability to practice medicine with reasonable skill and safety to patients by reason of a demonstrated lack of basic medical knowledge or clinical competency in violation of Ala. Code §34-24-360(20); failed to maintain patients medical records which meet the minimum standards stated in the rules and regulations promulgated by the Medical Licensure Commission of Alabama in violation of Ala. Code §34-24-360(22); and failed to comply with the rules of the Medical Licensure Board in violation of Ala. Code §34-24-360(23), specifically, Board Rule 545-X-4-.07 concerning the use of controlled substances for the treatment of pain;

WHEREAS, based upon the foregoing findings of fact and conclusions of the law, the Medical Licensure Commission of Alabama INDEFINITELY SUSPENDED Licensee's certificate to practice medicine in Alabama with the suspension stayed subject to the following probationary conditions to run indefinitely, to-wit:

1. Licensee's prescribing authority for controlled substances limited to Schedules IV and V.
2. Licensee to complete an extensive course in medical record keeping pre-approved by the Medical Licensure Commission.
3. Licensee to submit to the Medical Licensure Commission an affidavit affirming that he has read and fully understands the Board's policies for prescribing controlled substances for the treatment of pain.
4. Assessment of an administrative fine in the amount of \$40,000.00.
5. Assessment of certain administrative costs.

WHEREAS, pursuant to Subsections (8)(d) and (9) of Section 73-25-29, Miss. Code (1972), Ann., the aforementioned actions by the Alabama State Board of Medical Examiners constitute restrictions placed on a license in another jurisdiction, being grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi

medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby **Indefinitely Suspend** Licensee's Medical License No. 11645, with the suspension stayed, subject to the following probationary terms and conditions to run indefinitely, to-wit:

1. Licensee shall comply with all terms and conditions imposed on his license by the Medical Licensure Commission of Alabama.
2. Licensee shall permanently surrender all privileges to handle and prescribe controlled substances listed in Schedules II, IIN, III, and IIIN, and will not be permitted to order, manufacture, distribute, possess, dispense, administer or prescribe any controlled substances in said schedules. Licensee shall execute such forms and documents as required by the U.S. Drug Enforcement Administration to accomplish surrender of his controlled substances privileges in the above enumerated schedules.
3. Within one (1) year of acceptance of this Consent Order, Licensee shall obtain an additional forty (40) hours of Category 1 Continuing Medical Education (CME) in addition to the Licensure requirement forty (40) hours of Category 1 CME. These additional forty

hours must be approved by the American Medical Association, with emphasis on regulatory issues, record keeping, ethics and prescribing of controlled substances. See list of Board approved courses attached to this document as Exhibit "B." Upon completion of each course, Licensee shall submit to the Board documentary proof of successful completion thereof.

4. Licensee shall comply with all Federal and State Laws governing the practice of medicine and shall comply with the rules and regulations of the Board "Pertaining to Prescribing, Administering and Dispensing of Medication," including but not limited to the following:

(a) Licensee shall maintain a complete record of his examination, evaluation and treatment of patients, including documentation of diagnosis and reason for prescribing, dispensing or administering any controlled substance; the name, dose, strength, quantity of the controlled substance and the date the controlled substance was prescribed, dispensed or administered.

(b) Licensee shall not utilize pre-signed prescriptions and shall not delegate to non-physician personnel the responsibility of determining the type, dosage, form, frequency and application of controlled substances or other medication.

5. Licensee shall thoroughly familiarize himself with the aforementioned rules and regulations of the Board "Pertaining to Prescribing, Administering and Dispensing of Medication," and shall so indicate to the Board in writing within one (1) year of approval of this Consent Order.

6. Licensee's practice of medicine shall be subject to periodic surveillance by the Mississippi State Board of Medical Licensure. The Board's Executive Director, any member of the Board, or Investigative staff may perform an unannounced patient chart review of a representative sample of those patients treated by Licensee.
7. Licensee shall be prohibited from utilizing the services of or collaborating with any Advanced Practice Registered Nurse (APRN) or Physician Assistant.
8. In the event Licensee, a current resident of Alabama, should ever decide to practice in the state of Mississippi, Licensee shall provide the Board with thirty(30) days advance written notice, setting forth his anticipated practice location or locations, whether it be in a clinic or hospital setting.

Licensee shall have the right, but not the obligation, to petition the Board for removal of any or all of the restrictions imposed herein after completing all terms and conditions of his Alabama Medical Licensure Commission Order. At such time as Licensee petitions this Board for removal of any or all of the restrictions imposed herein, the Board reserves the right, in its sole and absolute discretion, to utilize any information or reports from either the Alabama Board of Medical Examiners or any other source, to impose any other restrictions it deems necessary to protect the public.

9. Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss Code Ann., §73-25-30. Licensee shall be advised of the total assessment by separate written notification and shall tender a certified check or money order payable to the Mississippi State Board of Medical Licensure, on or

before forty (40) days from the date Licensee receives the aforementioned notification.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

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

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. §73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Scott Hull Boswell, M.D., nonetheless, hereby waives his

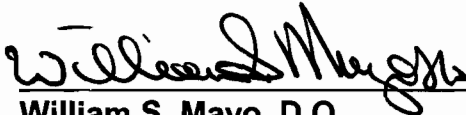
right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby indefinitely suspending his license to practice medicine in the State of Mississippi, staying the suspension and placing his license on Indefinite Probation, subject to those terms and conditions enumerated above.

Executed, this the 8th day of November, 2011.



Scott Hull Boswell, M.D.

ACCEPTED AND APPROVED, this the 10th, day of November, 2011, by
the Mississippi State Board of Medical Licensure.



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

ROBERT LEWIS BRUNSTON, JR., MD.

CONSENT ORDER

WHEREAS, Robert Lewis Brunston, Jr., M.D., hereinafter referred to as "Licensee" is the current holder of License No. 17394, issued October 1, 2001, for the practice of medicine in the State of Mississippi;

WHEREAS, on July 1, 2011, Licensee entered a plea of guilty to one count of the Indictment (26 U.S.C. §7203 Willful Failure To File Return, Supply Information) in case 1:11-cr-30 HSO-JMR, in the U.S. District Court for the Southern District of Mississippi of Mississippi Southern Division;

WHEREAS, pursuant to Subsections (6), (8)(d) and (13) of Section 73-25-29 and Section 73-25-83(a), Mississippi Code (1972), Annotated, the aforementioned constitutes a plea of guilty to a felony or misdemeanor involving moral turpitude, grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, it is the desire of Licensee to avoid a hearing before the Mississippi State Board of Medical Licensure and in lieu thereof requests that certain restrictions be placed on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Licensee as signified by his joinder herein, does hereby place Licensee's certificate to practice medicine in the State of Mississippi on probation, subject to the following terms and conditions:

1. Effective on the date the Court orders Licensee to surrender for service of the sentence at the institution designated by the Bureau of Prisons, Licensee shall be prohibited from practicing medicine;
2. Licensee during the year after his incarceration, obtain fifty (50) hours of Category I Continuing Medical Education (CME) approved by the American Medical Association, with emphasis on medical ethics. Following completion of each course, Licensee shall submit to the Board documentary proof of successful completion. This is in addition to the forty hours of Category I CME requirements as cited in Chapter 07 of the Board's Rules and Regulations;
3. Upon release from incarceration, Licensee shall have the right to petition the Board for authorization to return to practice. Any order authorizing Licensee's return to practice shall be subject to the following additional probationary terms and conditions which shall remain in effect until otherwise ordered by the Board, to-wit:
 - A. Licensee shall strictly comply with all of the terms and conditions of his release from incarceration.
 - B. Licensee shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.

- C. Licensee's medical practice shall be subject to periodic surveillance and the Board's Director, any member of the Board, or Investigator for the Board may perform a chart review of selected patient files.
- D. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.

IT IS FURTHER ORDERED, Pursuant to Miss. Code Ann., Section 73-25-30, Licensee shall pay all investigative costs associated with the disciplinary action taken herein. Licensee shall be advised of the total assessment by separate written notification, and shall tender to the Board a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date the assessment is mailed to Licensee via U.S. Mail.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or materials concerning Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation or consideration of the resolution of the proceeding.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute

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


Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Robert Lewis Brunston, Jr., M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an Order accepting this Consent Order, thereby placing his license on probation, subject to those terms and conditions enumerated above.

Executed this the 11 day of November, 2011.



Robert Lewis Brunston, Jr., M.D.

Accepted and Approved, this the 10th day of November, 2011, by the
Mississippi State Board of Medical Licensure.



William Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JOHN DEE DIAL, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, JOHN DEE DIAL, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 09551 issued on April 1, 1982, to practice medicine in the State of Mississippi;

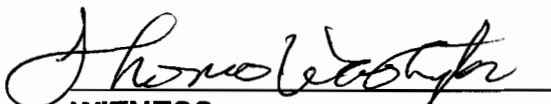
WHEREAS, during February 2011 - March 2011, the Investigative Staff of the Board conducted a comprehensive investigation into the medical practice of Licensee in Raleigh, Mississippi, and documented evidence indicating that Licensee has violated the Rules and Regulations of the Board in that Licensee is guilty of inappropriately touching a vulnerable adult for the purpose of satisfying Licensee's sexual desires and, therefore, is guilty of unprofessional or unethical conduct likely to deceive, defraud or harm the public;

WHEREAS, such conduct is in violation of the Mississippi Medical Practice Act, specifically Mississippi Code Annotated, Section 73-25-29(8)(d), (13), Section 73-25-83(a), and Section 43-47-18(2)(a)(b) as amended, for which the Mississippi State Board of Medical Licensure may place Licensee's medical license on probation, the terms of which may be set by the Board, suspend his right to practice medicine for a time deemed proper by the Board, revoke said license, or take any other action the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid an evidentiary hearing before the Board by voluntarily relinquishing his right to practice medicine in the State of Mississippi:

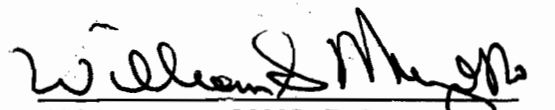
NOW, THEREFORE, Licensee hereby voluntarily surrenders his medical license (Number 09551) to practice medicine in the State of Mississippi. Licensee understands that this is an unconditional surrender, is reportable as disciplinary action to the National Practitioner Data Bank, and is a public record of the State of Mississippi. In the event Licensee later decides to practice medicine in the State of Mississippi, it will be necessary for him to submit a new application with the Board. At such time, the Board reserves the right to utilize all evidence, including all facts developed during the current investigation, as part of the consideration of any application.

EXECUTED this the 7th day of November, 2011.


WITNESS


JOHN DEE DIAL, M.D.

ACCEPTED AND APPROVED this the 10th day of November, 2011, by
the Mississippi State Board of Medical Licensure.


WILLIAM S. MAYO, D.O., President
Mississippi State Board of
Medical Licensure

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
NOVEMBER 10, 2011

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, November 10, 2011, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

William S. Mayo, D.O., Oxford, President
S. Randall Easterling, M.D., Vicksburg, Vice President
Virginia M. Crawford, M.D., Hattiesburg, Secretary
Larry B. Aycock, M.D., McComb
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
Philip T. Merideth, M.D., J.D., Jackson
Charles D. Miles, M.D., West Point

Also present:

H. Vann Craig, M.D., Director
Stan T. Ingram, Complaint Counsel for the Board
Ellen O'Neal, Assistant Attorney General
Rhonda Freeman, Bureau Director, Licensure Division
Thomas Washington, Bureau Director, Investigative Division
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee
Cecil R. Burnham, Jackson, Consumer Health Committee
Charles Thomas, Yazoo City, Consumer Health Committee

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

PRESENTATION

Dr. Mayo recognized retired National Guard Col John Fox who had requested to make a presentation on behalf of the Army National Guard at the request of Major Todd Pohnert. Col Fox advised that Major Pohnert had recommended that Thomas Washington, Bureau Director, Investigative Division, be presented the Patriot Award in

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recognition of how he has worked with Major Pohnert on his military leaves.

Dr. Mayo opened the floor for public comments. Gayle Harrell, President of the Mississippi Nurses Association, addressed the Board and asked if there had been any decision on the mileage issue concerning the nurse practitioners. Dr. Mayo thanked her and advised that the matter would be addressed later in the meeting. Cathy Williamson, with the Mississippi Board of Nursing, wanted to introduce two (2) new staff members of the Board of Nursing. Ms. Williamson introduced Michelle McCloud, Director of Advanced Practice, and Shelley Harrigill, the new staff attorney.

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD SEPTEMBER 01, 2011, THROUGH OCTOBER 31, 2011

One hundred seventy-eight (178) licenses were certified to other entities for the period September 01, 2011, through October 31, 2011. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD SEPTEMBER 01, 2011, THROUGH OCTOBER 31, 2011

Seventy-one (71) licenses were issued for the period September 01, 2011, through October 31, 2011. Motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED SEPTEMBER 21, 2011, AND MINUTES OF THE BOARD MEETING DATED SEPTEMBER 22, 2011

Minutes of the Executive Committee meeting dated September 21, 2011, and Minutes of the Board meeting September 22, 2011, were reviewed. Dr. Easterling moved for approval of the minutes as submitted. Dr. Brunson seconded the motion, and it carried unanimously.

REPORT OF NOVEMBER 09, 2011, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered a number of appearances and issues that were discussed/approved by the Executive Committee on November 9, 2011. Information pertaining to the Executive Committee decision is included in the Executive Committee Minutes dated November 9, 2011.

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November 10, 2011
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Dr. Mayo asked if there were any questions pertaining to Dr. Craig's report. Dr. Merideth asked for more information concerning the Letter of Concern that the Executive Committee had agreed to send Dr. Condon, with Central Mississippi Medical Center (CMMC). Dr. Merideth stated that he had problems with the letter and felt it was harsh and unwarranted and that he felt that the Board should take other action to handle the matter. After further discussion, Dr. Merideth asked if the Board could vote on the matter of Dr. Condon separately from ratifying the actions/decisions taken by the Executive Committee. Mr. Ingram stated that he wished to advise the Board that Mr. Kruger stated that he was the attorney for CMMC and was present on behalf of the hospital and never specified that he was Dr. Condon's attorney. Dr. Mayo made a motion to vote on whether to accept the Executive Committee's decision and send the non-public letter to Dr. Condon, with Dr. Easterling seconding the motion. In a vote of six (6) yes (Drs. Aycock, Miles, Jones, Crawford, Easterling and Mayo voting yes) and three (3) no votes (Drs. Brunson, Chance, and Merideth voting no), the motion passed.

The Board unanimously approved to ratify all other actions/decisions taken by the Executive Committee.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Crawford (Chair), Dr. Easterling, Dr. Aycock, Dr. Miles, Dr. Brunson, Mr. Burnham, Mr. Thomas

Dr. Crawford advised that the Scope of Practice Committee met this morning and had planned another meeting after the Board meeting today. Dr. Crawford advised that they had made headway, but that the proposal still was not ready to be submitted. Gayle Harrell, Mississippi Nurses Association, asked if the proposal would be posted on the Board's website. Dr. Crawford advised that it will more than likely be the January meeting before the matter is brought back before the Board.

Professionals Health Program - Dr. Mayo (Chair), Dr. Merideth, Dr. Chance

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

Rules, Regulation & Legislative - Dr. Easterling (Chair), Dr. Jones, Dr. Mayo, Dr. Chance, Mr. Breland

Dr. Easterling advised that the Committee is working on regulations pertaining to weight loss. Plans are to have a proposal for the January meeting.

Ethics - Dr. Merideth (Chair), Dr. Crawford, Dr. Jones

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

Telemedicine / EHR - Dr. Aycock (Chair), Dr. Miles, Dr. Brunson

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

**REQUEST FROM ACHIEVE WEIGHT LOSS TO ADDRESS THE BOARD
CONCERNING THE PRESCRIBING OF PHENTERMINE**

Dr. Craig briefly discussed the request from Achieve Weight Loss and advised that they had requested to appear before the Board today.

Mr. Ingram introduced Mark Garriga, attorney for Achieve Weight Loss, and Dr. Jesse Cannon, who is board certified in internal medicine and a member of the Bariatric Society. Dr. Cannon is currently working at Achieve Weight Loss and is here today to address the use of vitamin B12 and how it is used in weight loss. Mr. Garriga advised that there are four (4) Achieve Weight Loss clinics in Mississippi at the current time. Mr. Garriga advised that they wanted to discuss prescribing of phentermine on the first visit and prescribing and/or administering of vitamin B12 and other supplements.

After Dr. Cannon addressed the Board and explained how the vitamin B12 injections work with metabolism as well as several other medications that they use, Dr. Cannon and Mr. Garriga answered questions from the Board. Mr. Garriga advised that they were aware that the supplement is not FDA approved and advised that they had a Lipotropic B-12 Waiver that they wanted to implement advising each patient that the injections are not FDA approved for weight loss, and that Achieve is not promoting it as a weight loss supplement. Mr. Garriga advised that Achieve was here today because they want to be in compliance with the Board's rules and regulations.

Dr. Mayo thanked Dr. Cannon and Mr. Garriga for their information and advised them that the Board would take under advisement and get back with them later.

**PRESENTATION BY R. H. MEHTA, M.D., CONCERNING POLICY ABOUT OZONE
THERAPIES**

Dr. Mehta was introduced to the Board and Dr. Mayo asked that he address the Board and make his presentation.

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Dr. Mehta thanked the Board for their time and gave a brief history of how Ozone is used as a medical treatment. Dr. Mehta advised that he was requesting permission to use the treatment for degenerative joint disease mainly.

The Board had several questions for Dr. Mehta. Dr. Mehta advised that at the current time 14 states have approved Ozone therapies. Dr. Aycock advised that the FDA has made it clear that Ozone is basically a toxic gas that has not shown safe use. Dr. Aycock advised that he sees no evidence that it should be approved for patient use.

Dr. Mehta advised that he has attended courses and has training in the use. Dr. Mehta advised that the gas is injected into the joint. Dr. Mehta advised that he has used the injections himself.

After further discussion, motion was made by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously that this is unapproved therapy and not approved by the Board.

**PRESENTATION BY SCOTT HAMBLETON, M.D., MEDICAL DIRECTOR,
MISSISSIPPI PROFESSIONALS HEALTH PROGRAM, BUDGET**

Dr. Mayo stated to be in compliance with the Memorandum of Understanding, Dr. Hambleton had requested the opportunity to provide the Board with a copy of the 2012 Mississippi Professionals Health Program budget. Dr. Hambleton briefly discussed the budget and provided the Board with a copy.

Dr. Mayo thanked Dr. Hambleton for coming and providing the Board with MPHP's 2012 budget.

**HEARING IN THE CASE OF RAY A. HARRON, M.D., BRIDGEPORT, WV,
MISSISSIPPI MEDICAL LICENSE NUMBER 14223, SUMMONS AND AFFIDAVIT**

Mr. Ingram addressed the Board and advised that Mr. Blackmon, attorney for Dr. Harron, had filed a Motion for Continuance stating unavoidable conflicts with today's meeting. Mr. Ingram stated that originally Mr. Blackmon was given the date of November 17th and then the meeting changed to November 10th, which was a conflict with Mr. Blackmon's schedule. Mr. Ingram advised that he informed Mr. Blackmon that the next meeting date would be January 19, 2012, and Mr. Blackmon stated that date was open.

After a brief discussion, motion was made by Dr. Miles, seconded by Dr. Crawford, and carried unanimously to grant the Continuance until the January 19, 2012, Board meeting. A copy of the Continuance is attached hereto and incorporated by

BOARD MINUTES
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reference.

**HEARING IN THE CASE OF JAMES BENJAMIN BURKE, M.D., NATCHEZ,
MISSISSIPPI MEDICAL LICENSE NUMBER 20064, REQUEST FOR
REINSTATEMENT**

Mr. Ingram introduced Dr. Burke and his attorney, Joel Howell. Mr. Ingram advised they were here today to petition the Board for the return to practice by reinstatement of Dr. Burke's license.

Mr. Ingram briefly summarized Dr. Burke's history, made an opening statement, and entered several exhibits into the record. Mr. Ingram advised that Dr. Burke has complied with the Board's order dated July 7, 2011, and has entered into a lifetime monitoring agreement with MPHP.

Mr. Howell addressed the Board and advised that Dr. Burke has complied with the Board's request, has signed the lifetime monitoring agreement with MPHP, and is being offered advocacy from Dr. Hambleton, Director of MPHP. Mr. Howell advised that Dr. Burke has been offered a position with the Mississippi State Penitentiary, which is an all male facility. Mr. Howell asked if he could enter the job offer as an exhibit and there were no objections.

Dr. Scott Hambleton, Medical Director with MPHP, was called to the witness stand and was sworn in by the court reporter. Mr. Howell questioned Dr. Hambleton concerning the monitoring contract, Dr. Burke's treatment at Acumen, and if he is currently complying with the monitoring agreement.

Mr. Ingram questioned Dr. Hambleton and requested that he summarize for the Board the conditions of the lifetime monitoring contract.

Dr. Burke was called to the witness stand by Mr. Howell and sworn in by the court reporter. Mr. Howell questioned Dr. Burke as to his compliance of the Board's order. Mr. Ingram followed with several questions concerning the order and the lifetime monitoring contract.

Motion was made by Dr. Aycock, seconded by Dr. Easterling, and carried unanimously that the Board enter into Executive Session to discuss action that could adversely affect Dr. Burke's medical license.

Upon a motion by Dr. Easterling, seconded by Dr. Merideth, and carried unanimously the Board came out of Executive Session at which time Dr. Mayo asked Dr. Crawford to report on the Board's decision. Dr. Crawford advised that the Board

BOARD MINUTES
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unanimously finds that Dr. Burke has complied with all phases of Acumen and has entered into and must comply with MPHP's lifetime contract. Therefore, the Board reinstates Dr. Burke's license with the understanding that he must comply with all terms of the MPHP contract. The Board further advises that if Dr. Burke violates any terms of the MPHP contract that his license will be immediately suspended. Dr. Crawford advised that Mr. Thomas, Consumer Health Member, recused himself concerning the decision. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Ella Hardwick, Court Reporter.

THOMAS E. PANICO, M.D., FLOWOOD, MISSISSIPPI MEDICAL LICENSE NUMBER 20882, ORDER OF PROHIBITION

CHARLES H. WILLIAMS, M.D., FLOWOOD, MISSISSIPPI MEDICAL LICENSE NUMBER 08447, ORDER OF PROHIBITION

Dr. Craig briefly discussed two (2) Orders of Prohibition that had been served. One was on Thomas E. Panico, M.D., and the other on Charles H. Williams, M.D. After a brief discussion, the Orders of the Board are considered automatic and no approval or motion is required. A copy of the Orders of Prohibition are attached hereto and incorporated by reference.

DANIEL CRESTON GARNER, M.D., FRANKLIN, TN, MISSISSIPPI MEDICAL LICENSE NUMBER 16957, PETITION TO REMOVE RESTRICTIONS

Dr. Craig briefly discussed Dr. Garner's request for petition to remove restrictions from his license. Dr. Craig advised that Dr. Garner had complied with the Consent Order dated January 20, 2011, placing terms and conditions on his Mississippi medical license.

After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Easterling, and carried unanimously to grant Dr. Garner's request and remove all restrictions currently on his Mississippi medical license. A copy of the Order Removing all Restrictions is attached hereto and incorporated by reference.

UPDATE FROM ROBERT GALLI, M.D., THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER (UMC), TELEMERGENCY PROGRAM

For informational purposes only, Dr. Craig provided the Board members with an updated report from Dr. Galli concerning UMC's TelEmergency program providing information on how the program continues to make significant strides and

accomplishments.

**ROBERT LEWIS BRUNSTON, JR., M.D., OCEAN SPRINGS, MISSISSIPPI MEDICAL
LICENSE NUMBER 17394**

Mr. Ingram briefly discussed a revised Consent Order that has been sent to Dr. Brunston. Mr. Ingram advised that Dr. Brunston had previously signed a Consent Order placing his license on indefinite suspension while he is incarcerated after pleading guilty to one (1) count of Indictment related to failing to file tax returns. Mr. Ingram advised after reviewing the Consent Order that a revised Consent Order had been discussed with Dr. Brunston and he was willing to sign the revision and return the Consent Order to the Board. The Consent Order places Dr. Brunston's license on probation and prohibits him from practice until he appears before the Board.

After a brief discussion, motion was made by Dr. Easterling, seconded by Dr. Jones, and carried unanimously that the Board would accept the revised Consent Order once it is returned from Dr. Brunston. Also, Mr. Ingram advised that Dr. Brunston is to report on November 29, 2011, and that the Order allows him to practice until that time.

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

DEMONSTRATION OF BOARD'S NEW WEBSITE

For informational purposes, Mrs. Freeman, Bureau Director, License Division, showed the Board members what the homepage of the Board's new website will look like in the future.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:05 p.m., with the next scheduled meeting set for Thursday, January 19, 2012.



WILLIAM S. MAYO, D.O.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
November 10, 2011

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE OF

RAY A. HARRON, M.D.

ORDER OF CONTINUANCE


THIS MATTER came on regularly for hearing on November 10, 2011, before the Mississippi State Board of Medical Licensure, in response to a request for continuance of the hearing set for this date, made by Ray A. Harron, M.D. (hereinafter "Licensee") through his attorney, Edward Blackmon, Jr., Esq. The Board notes that this is the second request by Licensee for a continuance, the matter now pending since August 23, 2011. The Board's concern pertains to application of Miss. Code Ann. Section 11-1-9, providing automatic right of continuance of legal matters to members of the Mississippi Legislature when in session. However, the Board is advised through its counsel, Stan T. Ingram, that both Mr. Ingram and Mr. Blackmon reviewed their respective schedules and have affirmatively set January 19, 2012 as the agreed hearing date. Accordingly, after consideration of the matter, the Board finds Licensee's motion to be well taken.

IT IS, THEREFORE, ORDERED, that this matter is continued until January 19, 2012 at 10:00 a.m.

SO ORDERED, this the 10th day of November, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY:



WILLIAM S. MAYO, D. O., PRESIDENT

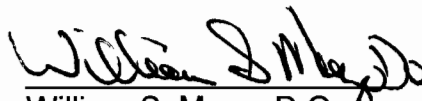
**EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
NOVEMBER 10, 2011**

AGENDA ITEM: XIV. Hearing in the case of James Benjamin Burke, M.D.

In a motion made by Dr. Aycock, seconded by Dr. Miles, the Board unanimously voted that Dr. Burke has completed the phases of Acumen and has entered into and must comply with MPHP's lifetime contract. Therefore, MSBML reinstates Dr. Burke's license with the understanding that he must comply with all terms of MPHP's contract. If Dr. Burke violates any terms of MPHP's contract, Dr. Burke's license will be immediately suspended.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
William B. Jones, M.D.	X			
William S. Mayo, D.O.	X			
Philip T. Merideth, M.D., J.D.	x			
Charles D. Miles, M.D.	X			

With a motion by Dr. Easterling, seconded by Dr. Merideth, the Board came out of Executive Session.



William S. Mayo, D.O.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JAMES BENJAMIN BURKE, M.D.

ORDER

THIS MATTER came on regularly for consideration on November 10, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of James Benjamin Burke, M.D. (hereinafter "Licensee"), seeking reinstatement of his license to the practice medicine in the State of Mississippi. By virtue of that certain Determination and Order rendered July 7, 2011, Licensee's certificate to practice medicine in the state of Mississippi was indefinitely suspended due to multiple grounds; the most prevalent being recurrent violations of a previous Order of the Board.

Licensee was present, represented by Honorable Joel Howell. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for all proceedings were William S. Mayo, D.O., President; S. Randall Easterling, M.D.; Larry B. Aycock, M.D.; William B. Jones, M.D.; Claude D. Brunson, M.D.; Rickey L. Chance, D.O.; Virginia M. Crawford, M.D.; Philip T. Merideth, M.D., J.D.; and Charles D. Miles, M.D.

The Board, after hearing all testimony and considering all evidence, finds Licensee's request to be well taken and that Licensee can return to the practice of medicine, subject to certain terms and conditions as specified below.

NOW THEREFORE, IT IS HEREBY ORDERED, that Licensee's certificate to practice medicine in the state of Mississippi is hereby reinstated, subject to the following restrictions, to-wit:

1. Licensee shall comply with all terms and conditions set forth in that certain Lifetime Monitoring Agreement dated October 10, 2011, with the Mississippi Professionals Health Program (MPHP). The Board is advised that said Lifetime Monitoring Agreement incorporated the recommendations of Acumen Assessments LLC, Lawrence, Kansas, following Licensee's evaluation.

2. Until ordered otherwise by this Board, Licensee shall not treat female patients and shall work in a structured supervised environment, wherein he shall not have any supervisory responsibility over other physicians or healthcare providers who may treat female patients.

3. Until ordered otherwise by this Board, Licensee shall advise the Board of any and all changes in his practice location(s). Any changes in practice location must be approved in advance by the Board. Such notice shall be in writing and submitted to the Board at least thirty (30) days prior to any change.

IT IS FURTHER ORDERED that pursuant to Section 73-25-27, a copy of this Determination and Order shall be sent by registered mail, or personally served upon James Benjamin Burke, M.D. or his Counsel, Honorable Joel Howell. Because both parties were informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 10th day of November, 2011.

**MISSISSIPPI STATE BOARD OF
MEDICAL LICENSURE**

BY: William S. Mayo
WILLIAM S. MAYO, D. O., PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

THOMAS E. PANICO, M.D.

ORDER OF PROHIBITION

WHEREAS, Thomas E. Panico, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 20882, said number valid until June 30, 2012;

WHEREAS, based on a diagnosis of chemical dependency, Licensee entered into a Recovery Contract Agreement (RCA) on December 13, 2010, with the Mississippi Professionals Health Committee (MPHC) of the Mississippi Professionals Health Program (MPHP) and the Mississippi State Board of Medical Licensure (MSBML or Board), setting forth certain requirements for Licensee to insure his continued safe practice of medicine as personal health care concerns are addressed, including but not limited to, medication monitoring, monitoring of his medical practice, and obtaining approved treating physicians with reports to MPHP.

Paragraph 1 of the RCA provides, in part:

Total Abstinence. *I agree to abstain completely from the use of any alcohol, mood-altering prescription medication or mood-altering substances, including non-approved over-the-counter medications. Other than emergencies, I agree to abstain from the use of any mood-altering, addictive, or potentially addictive prescription medications, without written permission from MPHP. I understand that failure to do so will represent a violation of this agreement.*

Paragraph 17 of the RCA provides, in part:

Breach of Contract. *I understand that ANY breach of this contract will be grounds for re-evaluation by the MPHC with an immediate report to the MSBML.*

In the event I do not comply with the elements of this Agreement, the

MSBML shall have the authority, with recommendation from the MPHC, to immediately prohibit me from practicing medicine until such time as the MSBML and MPHC determines that I am able to return to the practice of medicine. In so doing, the MSBML and MPHC may require I undergo further evaluation at an approved facility.

WHEREAS, the Board now has in its possession documentation and other evidence indicating that Licensee has violated and continues to be in violation of the terms and conditions set forth in the December 13, 2010, Recovery Contract Agreement, said facts and matters more particularly set forth by Affidavit of Investigator Jonathan Dalton, attached hereto as Exhibit "A" and incorporated herein by reference;


WHEREAS, the Mississippi State Board of Medical Licensure has the authority pursuant to the terms of the RCA to prohibit Licensee from practicing medicine until such time as the Board and MPHC determine that Licensee is able to safely return to the practice of medicine;

NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to the aforementioned authority, Licensee shall be prohibited from the practice of medicine until such time as the Board and MPHC determine that Licensee is able to safely return to the practice of medicine.

IT IS FURTHER ORDERED, that a copy of this Order shall be sent by registered mail or personally served upon Thomas E. Panico, M.D., and shall be effective immediately upon receipt thereof.

ORDERED this the 4th day of October, 2011.

I, Jonathan Dalton, Investigator, of the Mississippi State Board of Medical Licensure, did personally serve an original copy of this Order of Prohibition to Thomas E. Panico, M.D., October 5, 2011, at 10:45 a.m.


H. Vann Craig, M.D., Executive Director
Mississippi State Board of Medical Licensure


Jonathan Dalton
Investigator

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE**

OF

THOMAS E. PANICO, M.D.

AFFIDAVIT

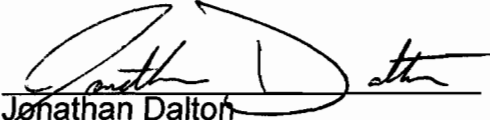
I, Jonathan Dalton, Investigator, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. That Thomas E. Panico, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 20882, said number valid until June 30, 2012.
2. That based on a diagnosis of chemical dependency, Licensee entered into a Recovery Contract Agreement (RCA) on December 13, 2010, with the Mississippi Professionals Health Committee (MPHC) of the Mississippi Professionals Health Program (MPHP) and the Mississippi State Board of Medical Licensure (MSBML or Board), setting forth certain requirements for Licensee to insure his continued safe practice of medicine as personal health care concerns are addressed, including but not limited to, medication monitoring, monitoring of his medical practice, and obtaining approved treating physicians with reports to MPHP.
3. That on or about September 29, 2011, the Mississippi State Board of Medical Licensure (hereinafter "the Board") received a letter from Scott Hambleton, M.D., Medical Director of the Mississippi Professionals Health Program (hereinafter "MPHP") concerning Licensee. Dr. Hambleton stated that on September 13, 2011,

Exhibit A

MPHP obtained information that Licensee had relapsed while attending to personal matters in New York. The letter states that on September 15, 2011, Licensee submitted to a urine drug screen while in New York. The results of this test were invalid and a Medical Review Officer reported to MPHP that the test indicated a specific gravity of 1.0000. In paragraph one Dr. Hambleton states, "This result is consistent with adulteration and is considered a positive test." On September 19, 2011, Licensee submitted to a PeTH test for blood analysis. The results were submitted to MPHP and on September 29, 2011, MPHP was made aware that Licensee had tested positive with a level of 624.7 ng/mL. The letter, as a point of reference, indicates that the cutoff for a negative screen is 20 ng/mL. This result indicates that Licensee consumed a substantial quantity of alcohol. Dr. Hambleton concludes the letter by stating that, "Dr. Panico's practice of medicine, in his current state, represents a danger to the public health. Dr. Panico has clearly relapsed to the use of substances and is in violation of his Recovery Contract Agreement. At this time, MPHP withdraws its advocacy indefinitely for the medical licensure of Dr. Tom Panico."

4. Based on the foregoing, the undersigned has reason to believe and does believe that the continued, unrestricted practice of Thomas E. Panico, M.D., constitutes an immediate threat to the public.


Jonathan Dalton
Investigator
Mississippi State Board of Medical Licensure

Sworn to and Subscribed Before me, this the 4th day of October,
2011.

Frances E Carrillo
Notary Public



BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CHARLES H. WILLIAMS, M.D.

ORDER OF PROHIBITION

WHEREAS, Charles H. Williams, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 08447, said number valid until June 30, 2012;

WHEREAS, based on a diagnosis of mental illness, Licensee entered into a Recovery Contract Agreement (RCA) on March 8, 2010, with the Mississippi Professionals Health Committee (MPHC) of the Mississippi Professionals Health Program (MPHP) and the Mississippi State Board of Medical Licensure (MSBML or Board), setting forth certain requirements for Licensee to insure his continued safe practice of medicine as personal health care concerns are addressed, including but not limited to, medication monitoring, monitoring of his medical practice, and obtaining approved treating physicians with reports to MPHP.

Paragraph 5 of the RCA provides, in part:

Psychiatric Physician. *I agree to see Dr. Mark McLain, psychiatrist, . . . for the purpose of prescribing and monitoring medication levels. There shall be a free flow of communication between my psychiatrist, my therapist and MPHP. Quarterly compliance reports will be sent to MPHP.*

Paragraph 10 of the RCA provides, in part:

Reporting Requirements. *I agree to contact the office of the MPHP by phone at least one time per month.*

Paragraph 12 of the RCA provides, in part:

Periodic Re-evaluation. *I agree to appear before the MPHC located in Jackson, MS for periodic re-evaluation when scheduled by the MPHC.*

Paragraph 15 of the RCA provides, in part:

Term. *I agree to the terms of this contract for the life of my medical practice, and I will follow this contract and any subsequent recommendations of the MPHC during my continuing care monitoring phase. Upon completion of this contract, an evaluation will be made by the MPHC for the purpose of extension, renewal or discharge.*

Paragraph 17 of the RCA provides, in part:

Breach of Contract. *I understand that ANY breach of this contract will be grounds for re-evaluation by the MPHC with an immediate report to the MSBML.*

In the event I do not comply with the elements of this Agreement, the MSBML shall have the authority, with recommendation from the MPHC, to immediately prohibit me from practicing medicine until such time as the MSBML and MPHC determines that I am able to return to the practice of medicine. In so doing, the MSBML and MPHC may require I undergo further evaluation at an approved facility.

WHEREAS, the Board now has in its possession documentation and other evidence indicating that Licensee has violated and continues to be in violation of the terms and conditions set forth in the March 8, 2010, Recovery Contract Agreement, said facts and matters more particularly set forth by Affidavit of Investigator Jonathan Dalton, attached hereto as Exhibit "A" and incorporated herein by reference;

WHEREAS, the Mississippi State Board of Medical Licensure has the authority pursuant to the terms of the RCA to prohibit Licensee from practicing medicine until such time as the Board and MPHC determine that Licensee is able to safely return to the practice of medicine;

NOW, THEREFORE, IT IS HEREBY ORDERED, that pursuant to the aforementioned authority, Licensee shall be prohibited from the practice of medicine until

such time as the Board and MPHC determine that Licensee is able to safely return to the practice of medicine.

IT IS FURTHER ORDERED, that a copy of this Order shall be sent by registered mail or personally served upon Charles H. Williams, M.D., and shall be effective immediately upon receipt thereof.

ORDERED this the 4th day of October, 2011.


H. Vann Craig, M.D., Executive Director
Mississippi State Board of Medical Licensure

I, Jonathan Dalton, Investigator, of the Mississippi State Board of Medical Licensure, did personally serve an original copy of this Order of Prohibition to Charles H. Williams, M.D., October 5, 2011, at 9:05 a.m.


Jonathan Dalton
Investigator

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE**

OF

CHARLES H. WILLIAMS, M.D.

AFFIDAVIT

I, Jonathan Dalton, Investigator, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. That Charles H. Williams, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 08447, said number valid until June 30, 2012.
2. That based on a diagnosis of mental illness, Licensee entered into a Recovery Contract Agreement (RCA) on March 8, 2010, with the Mississippi Professionals Health Committee (MPHC) of the Mississippi Professionals Health Program (MPHP) and the Mississippi State Board of Medical Licensure (MSBML or Board), setting forth certain requirements for Licensee to insure his continued safe practice of medicine as personal health care concerns are addressed, including but not limited to, medication monitoring, monitoring of his medical practice, and obtaining approved treating physicians with reports to MPHP.
3. That on or about September 27, 2011, the Mississippi State Board of Medical Licensure, (hereinafter "the Board") received a letter from the Mississippi Professionals Health Program (hereinafter "MPHP") concerning Licensee. The letter was authored by Licensee's treating psychiatric physician, Mark Mclain, M.D.,

Exhibit A

Mississippi Neuropsychiatric Clinic, PLLC. The letter indicated Dr. McLain is concerned Licensee's Bipolar 1 Disorder is affecting Licensee's, "behavior and judgment in ways that call for evaluation and treatment right away." Dr. McLain stated that Licensee informed him that he would no longer be seeing Dr. McLain for psychiatric evaluation, as required in the Recovery Contract Agreement (hereinafter "RCA"). Dr. McLain went on to state that, in his professional opinion, Licensee's judgment is impaired. Dr. McLain also stated that it may be unsafe for Licensee to continue practicing medicine without an evaluation and treatment.

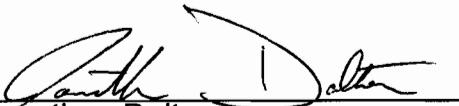
4. That on or about September 28, 2011, the Board received a letter from Scott Hambleton, M.D., Medical Director of MPHP, reporting Licensee as being in violation of sections 5, 10, 12, and 15 of the RCA dated March 8, 2010. Dr. Hambleton's letter indicated that other factors, such as collateral information, indicated Licensee was exhibiting abnormal behavior. This behavior varied from, ". . . speaking in a loud voice, ranting with pressured speech, violating personal space boundaries, and acting in a non-professional manner with a patient." On September 26, 2011, Sondra Armstrong of MPHP spoke with Licensee via telephone. Licensee at one point stated he was mis-diagnosed in "1883." According to Dr. Hambleton, Licensee was likely referring to Licensee's psychiatric hospitalization in 1983. Dr. Hambleton met with Licensee on September 27, 2011, and noted several instances of abnormal behavior. Dr. Hambleton stated that Licensee, "spoke in a rapid, very loud voice. . . sat very close to me during the interview, while leaning forward, and touched my arm and leg several times." Dr. Hambleton also acknowledged other odd behaviors such as Licensee stating that he did not have Bipolar Disorder and

that Licensee would not go back to Dr. McLain or any other doctor. Licensee also made the statement that people were out to get him. Dr. Hambleton concluded his letter by stating that Licensee was experiencing hypo-manic episodes and that Licensee's, ". . . continued practice of medicine in his current state represents imminent danger to the public health."

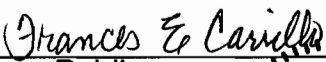
5. Section 5 of the RCA dated March 8, 2010, states that the Licensee shall indicate which psychiatric physician Licensee wishes to see and maintain an open flow of communication regarding the continuing treatment of Licensee with MPHP and, by extension, the Board. Dr. Hambleton's letter further indicated that Licensee refused to see Dr. McLain and spoke by telephone to terminate the relationship. By refusing to see Dr. McLain, and by not obtaining a new treating psychiatrist, Licensee is in direct violation of section 5 of the RCA.
6. Section 10 of the RCA dated March 8, 2010, states that Licensee agrees to speak with MPHP via telephone at least once per month. Paragraph four of Dr. Hambleton's letter indicated that MPHP had, ". . . difficulty contacting Dr. Williams by telephone, email, and US mail. We sent a certified letter, dated September 20, 2011." Licensee's unwillingness to communicate with MPHP in a timely fashion places Licensee in violation of section 10 of the RCA.
7. Section 12 of the RCA dated March 8, 2010, states that Licensee agrees to "appear before the MPHC located in Jackson, MS, for periodic re-evaluation when scheduled by MPHC." Dr. Hambleton's letter indicated that Licensee missed his appointment with MPHC on September 12, 2011. By missing a scheduled meeting

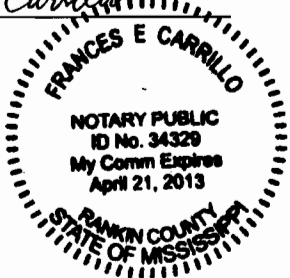
with MPHC, Licensee is in direct violation of section 12 of the RCA.

8. Section 15 of the RCA dated March 8, 2010, states that Licensee agrees, “. . .to the terms of this contract for the life of my medical practice, and I will follow this contract and any subsequent recommendations of the MPHC during my continuing care monitoring phase. . .” Licensee has refused to obtain a follow-up psychiatric evaluation as recommended by MPHP and MPHC. This places Licensee in direct violation of section 15 of the RCA.
9. Based on the foregoing, the undersigned has reason to believe and does believe that the continued, unrestricted practice of Charles H. Williams, M.D., constitutes an immediate threat to the public.


Jonathan Dalton
Investigator
Mississippi State Board of Medical Licensure

Sworn to and Subscribed Before me, this the 4th day of October,
2011.


Notary Public



BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

DANIEL CRESTON GARNER, M.D.

ORDER REMOVING ALL RESTRICTIONS

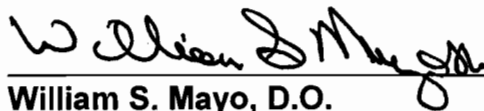
THIS MATTER came on regularly for consideration on November 10, 2011, before the Mississippi State Board of Medical Licensure, in response to the request of Daniel Creston Garner, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Board Order dated January 20, 2011. The Board, after hearing said request, finds the same to be well-taken.

IT IS HEREBY ORDERED, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

IT IS FURTHER ORDERED, that pursuant to Miss Code Ann. Sections §73-25-27 and §73-25-32 (1972), a copy of this Order shall be sent by registered mail or personally served upon Daniel Creston Garner, M.D.

ORDERED, this the 10th day of November, 2011.

Mississippi State Board of Medical Licensure



**William S. Mayo, D.O.
President**

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF PHYSICIAN'S LICENSE**

OF

ROBERT LEWIS BRUNSTON, JR., MD.

CONSENT ORDER

WHEREAS, Robert Lewis Brunston, Jr., M.D., hereinafter referred to as "Licensee" is the current holder of License No. 17394, issued October 1, 2001, for the practice of medicine in the State of Mississippi;

WHEREAS, on July 1, 2011, Licensee entered a plea of guilty to one count of the Indictment (26 U.S.C. §7203 Willful Failure To File Return, Supply Information) in case 1:11-cr-30 HSO-JMR, in the U.S. District Court for the Southern District of Mississippi of Mississippi Southern Division;

WHEREAS, pursuant to Subsections (6), (8)(d) and (13) of Section 73-25-29 and Section 73-25-83(a), Mississippi Code (1972), Annotated, the aforementioned constitutes a plea of guilty to a felony or misdemeanor involving moral turpitude, grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS, it is the desire of Licensee to avoid a hearing before the Mississippi State Board of Medical Licensure and in lieu thereof requests that certain restrictions be placed on his license to practice medicine in the State of Mississippi;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Licensee as signified by his joinder herein, does hereby place Licensee's certificate to practice medicine in the State of Mississippi on probation, subject to the following terms and conditions:

1. Effective on the date the Court orders Licensee to surrender for service of the sentence at the institution designated by the Bureau of Prisons, Licensee shall be prohibited from practicing medicine;
2. Licensee during the year after his incarceration, obtain fifty (50) hours of Category I Continuing Medical Education (CME) approved by the American Medical Association, with emphasis on medical ethics. Following completion of each course, Licensee shall submit to the Board documentary proof of successful completion. This is in addition to the forty hours of Category I CME requirements as cited in Chapter 07 of the Board's Rules and Regulations;
3. Upon release from incarceration, Licensee shall have the right to petition the Board for authorization to return to practice. Any order authorizing Licensee's return to practice shall be subject to the following additional probationary terms and conditions which shall remain in effect until otherwise ordered by the Board, to-wit:
 - A. Licensee shall strictly comply with all of the terms and conditions of his release from incarceration.
 - B. Licensee shall report in writing to the Mississippi State Board of Medical Licensure within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.

- C. Licensee's medical practice shall be subject to periodic surveillance and the Board's Director, any member of the Board, or Investigator for the Board may perform a chart review of selected patient files.
- D. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.

IT IS FURTHER ORDERED, Pursuant to Miss. Code Ann., Section 73-25-30, Licensee shall pay all investigative costs associated with the disciplinary action taken herein. Licensee shall be advised of the total assessment by separate written notification, and shall tender to the Board a certified check or money order made payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date the assessment is mailed to Licensee via U.S. Mail.

This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or materials concerning Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation or consideration of the resolution of the proceeding.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute

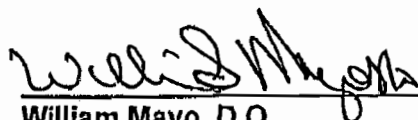
a public record of the State of Mississippi. Licensee further acknowledges that the Board shall provide a copy of this Order to, among others, the U.S. Drug Enforcement Administration, and the Board makes no representation as to action, if any, which the U.S. Drug Enforcement Administration may take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

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann., Section 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, Robert Lewis Brunston, Jr., M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an Order accepting this Consent Order, thereby placing his license on probation, subject to those terms and conditions enumerated above.

Executed this the 11 day of November, 2011.


Robert Lewis Brunston, Jr., M.D.

Accepted and Approved, this the 10th day of November, 2011, by the
Mississippi State Board of Medical Licensure,


William Mayo, D.O.
President