EXECUTIVE COMMITTEE

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JANUARY 2013

MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 23, 2013

MEMBERS PRESENT:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, 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
Mickey Boyette, Investigator, Investigative Division
Jonathan Dalton, Investigator, Investigative Division
Charles Ware, Investigator, Investigative Division
Frances Carrillo, Special Projects Officer, 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, January 23, 2013, at 1:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

APPROVAL OF RECOMMENDATION FROM EXAMINING COMMITTEE'S FINAL REPORT PER MS CODE ANN § 73-25-55

MATHEW WALLACK, M.D., BILOXI, MISSISSIPPI MEDICAL LICENSE NUMBER 18379

Dr. Easterling advised that Joel Howell, attorney for Mathew Wallack, M.D., was here to discuss Dr. Wallack's matter with the Executive Committee.

Mr. Howell addressed the Executive Committee and stated that Dr. Wallack is in treatment and will not be practicing medicine. Mr. Howell requested that any action be deferred pending Dr. Wallack's treatment. Dr. Craig briefly discussed the Examining

Committee's evaluation and the fact that Dr. Wallack was given three (3) treatment choices. Dr. Craig advised that Dr. Wallack is in treatment, however, he did not go to any of the treatment centers requested by the Examining Committee, but chose one where he said he felt more comfortable. Scott Hambleton, M.D., Director of Mississippi Professionals Health Program (MPHP), was in attendance and explained that the Examining Committee has reasons why they specify certain facilities and even though this is an approved facility, it was not one that the Examining Committee chose.

After a brief discussion concerning the precedence this sets, there was discussion concerning the fact that Dr. Wallack should have at least contacted the Board and not made the decision on his own.

Following further discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to place any decision in abeyance pending Dr. Wallack receiving advocacy from the program.

WOODIE HERRON, M.D., ABERDEEN, MISSISSIPPI MEDICAL LICENSE NUMBER 10988

Dr. Craig briefly discussed the evaluation received from Cumberland Heights in Nashville, TN., concerning Dr. Herron and stated that based on their evaluation they recommend six (6) months of monitoring by PHP.

Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously to accept the recommendation of the evaluation.

ELLEN O'NEAL ARRIVED AT 1:15 P.M.

REQUEST FROM ROBERT S. CORKERN'S ATTORNEY FOR MOTION IN LIMINE TO EXCLUDE EVIDENCE

Bonnie Bridgers Smith and Hal Nielson, attorneys for Dr. Corkern, addressed the Executive Committee and made a request of motion in limine to exclude evidence from Dr. Corkern's 2010 issues with the Board. Ms. Bridgers Smith advised that the case to be heard on Thursday is only for the bribery plea that Dr. Corkern made and should not include any documents from the 2010 Consent Order as they do not feel it is relevant.

Mr. Ingram, Complaint Counsel for the Board, responded that Dr. Corkern wants the Board to only hear evidence in his favor. Mr. Ingram stated that the rules of evidence do not strictly apply to the 2010 Consent Order which is part of Dr. Corkern's history which

should be considered by the Board. Mr. Ingram advised that Dr. Corkern wants only favorable testimony at his Board hearing, when the Board should consider all information.

Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to deny Dr. Corkern's request to exclude evidence at Thursday's hearing.

REQUEST FROM JOEL HOWELL, ATTORNEY, FOR SANTANU SOM, D.O., NATCHEZ, MISSISSIPPI MEDICAL LICENSE NUMBER 20149

Mr. Howell addressed the Executive Committee and stated that he knows that Dr. Som is on Thursday's agenda. Mr. Howell advised that he has just become involved in the case and discussed the proposal sent by Dr. Som's attorney from New York. Mr. Howell stated that he was aware that the Board has the proposal and stated that they basically want approval from the Board to allow Dr. Som to enter a two or four week course in India versus a program in the United States. Mr. Howell stated that Dr. Som has already completed some training at Hurley before transferring to New York.

Following a brief discussion concerning Dr. Som's training and the Board's previous requests, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that the request needs to be made to the Full Board on Thursday.

DISCUSS FRANK T. BRYANT, M.D., TULAROSA, NM, APPLICANT

Dr. Craig briefly discussed Dr. Bryant's request that the Board delay any action on his application for licensure for six to nine months so that he can do a spinal fellowship.

Following a brief discussion concerning Dr. Bryant's request and the Board's rules and regulations concerning an application and when it becomes null and void, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously to deny Dr. Bryant's request. Also, the Executive Committee agreed to advise Dr. Bryant that he will need to start the process all over and reapply should his application become null and void.

PERSONAL APPEARANCE BY SANDRA F. BURFORD, M.D., VICKSBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 11009

Dr. Craig briefly discussed that Dr. Burford had been invited to the Executive Committee to discuss her relationship with the two (2) APRNs that she works with in Vicksburg. Dr. Craig stated that they do not have a backup physician and that recently Dr. Burford was in Hattiesburg with her ill mother and the APRNs kept their office open. Also,

Dr. Craig advised that the APRNs were prescribing controlled substances to each other and family members.

Dr. Burford joined the meeting but had refused to sign the written agreement for this informal meeting stating that she did not request the meeting and that to her knowledge she was not under investigation.

Dr. Burford addressed the Executive Committee and advised that the Board of Nursing had advised her that the APRNs could operate the clinic with no backup while she was in Hattiesburg as long as she checked in with them daily, which she did, as well as being accessible by phone during clinic hours. When questioned about their prescribing controlled substances to each other and family members, Dr. Burford stated that she was not aware that this was going on and did state that Ms. Hossley was no longer working at the clinic. Dr. Burford stated that she had requested a PMP report and did not see any prescribing to each other. Dr. Craig covered several prescriptions that were on the report. Dr. Easterling reiterated the Board's rules and regulations from Dr. Burford's last visit before the Executive Cornmittee and why it is important for everyone to abide by them. Dr. Easterling stated that on the last visit Dr. Burford was instructed that the clinic must close when she was out of town and there was no backup physician.

Dr. Easterling thanked Dr. Burford for appearing and advised her that the matter would be discussed further and a recommendation made to the full Board on Thursday.

Following discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that Dr. Burford needs to review her collaborative agreements and remind her of the responsibilities of reviewing PMP reports more frequently. Also, Dr. Burford needs to be reminded of the Board's rules and regulations concerning out of town coverage and being consistent with all requirements of the Board's rules and regulations concerning collaborative agreements.

PERSONAL APPEARANCE BY STEVEN ROSS PARRIS, M.D., HOMEWOOD, AL, APPLICANT

Dr. Craig briefly discussed that Dr. Parris had been invited to the Executive Committee to discuss concerns with his application for licensure.

It was determined that Dr. Parris had received the certified mail to appear but after checking the facility, he was a no show. Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to advise Dr. Parris that due to the fact that he failed to appear before the Executive Committee as requested on November 14, 2012, or January 23, 2013, that his application for reinstatement was null

and void since there had been no activity for over three (3) months.

PERSONAL APPEARANCE BY PETER LEV HERCULES, M.D., TERRY, MISSISSIPPI MEDICAL LICENSE NUMBER 16013

Dr. Craig stated that Dr. Hercules is an emergency room doctor in Brookhaven and that he had been invited to the Executive Committee meeting to discuss questions concerning his collaboration with ARPNs as well as concerns with his licensure renewal form.

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Hercules 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. Hercules was here today with counsel and introduced Barry Cockrell. Also, Mr. Ingram advised that Collier Graham was here representing King's Daughter Medical Center as their legal counsel.

Dr. Craig asked Dr. Hercules to address the issue of the APRNs that were listed with him as secondary on his licensure renewal. Dr. Hercules stated that he works with seven (7) APRNs and was not aware that he listed them showing he was their secondary physician. Dr. Hercules also stated when questioned that he was unaware of the 20 charts or 10% review that he was required to complete on the APRNs each month.

When questioned concerning the anonymous complaint the Board had received concerning a patient that was treated by an APRN for an extensor tendon laceration and never seen by a physician, Dr. Hercules advised that he had reviewed the clinical report and agreed with the findings.

Dr. Easterling discussed collaborative relationships and protocols and stated that the Board expects the collaborative physician to follow the Board's rules and regulations and to stay abreast of the changes on the Board's website.

The Executive Committee thanked Dr. Hercules for appearing today. Dr. Hercules left the requested CME's with the committee before departing.

After further discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried that no further action was necessary.

PERSONAL APPEARANCE BY LOUIS J. SADDLER, M.D., CANTON, MISSISSIPPI MEDICAL LICENSE NUMBER 08627

Dr. Craig advised that Dr. Saddler had been invited to appear to address concerns

that an APRN works alone in his office in Canton while he is working at the prison in Pearl. Also, Dr. Craig advised that Dr. Saddler is allowing the APRN to call in controlled substances using his DEA number. Dr. Craig stated that he has been informed that Dr. Saddler has recently made some changes and is no longer allowing controlled substances to be called in to the pharmacy in his behalf.

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Saddler 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. Saddler was here today without counsel.

Dr. Saddler addressed the meeting and stated that he had made changes to his office after a meeting with a board investigator. Dr. Saddler stated that the APRN in question no longer works for him and that he no longer allows anyone in the office to call in prescriptions in his behalf. Dr. Saddler stated that he goes to the Canton clinic daily and the time he spends there depends on the number of patients he needs to see.

Following a discussion concerning the distance between the clinic and the prison and his allowing an APRN to call in prescriptions using his DEA number, the Executive Committee advised Dr. Saddler that he needs to apply for the clinic in Canton to be a free standing clinic. Also, Dr. Saddler was advised that he needs to have the request for the free standing clinic approved by the Board.

Following further discussion, the Executive Committee unanimously agreed that Dr. Saddler be sent a non-public letter of concern addressing the above issues.

DISCUSS LETTER FROM MISSISSIPPI PROFESSIONALS HEALTH PROGRAM CONCERNING WAIVER FOR MICHAEL HAWLEY, D.O., CORINTH, APPLICANT

Dr. Craig advised that the Board had received a letter from Scott Hambleton, Director, Mississippi Professionals Health Program (MPHP), concerning Dr. Hawley and the fact that he will not complete residency in Internal Medicine at Magnolia Regional Health Center in Corinth until July 23, 2013. Dr. Craig stated that Dr. Hambleton was requesting a waiver on the two year sobriety requirement that the Board has in place. Dr. Craig stated that Dr. Hawley will only have had 18 months sobriety when he completes his residency and that he has been offered a job in Corinth at the hospital which requires him to have a permanent license.

Dr. Hambleton addressed the Executive Committee and responded to several questions before stating that he is here to advocate for Dr. Hawley and stated that Dr. Hawley has agreed to a five (5) year monitoring contract instead of the normal two (2) year contract.

After a brief discussion, the Executive Committee agreed that they wished to take the matter to the full Board on Thursday for discussion since this was a waiver of the Board's rules and regulations concerning licensure.

THE EXECUTIVE COMMITTEE RECESSED AT 2:35 P.M. AND RETURNED AT 2:50 P.M.

DISCUSS APPLICATION FOR BRIDGET SMITH, M.D., BROOKHAVEN, WAIVER

Dr. Craig discussed the application for Dr. Smith and advised that she had requested a waiver due to the time it took for her to pass all steps of the USMLE. Dr. Craig advised that it took Dr. Smith from October 1997 until June 2009 to pass all the required steps. To date, Dr. Smith has not responded to the request for an explanation even though it was determined that she is licensed in Louisiana and Michigan.

The Executive Committee unanimously agreed to not make a decision until Dr. Smith responds and provides an explanation to her request for the waiver.

DISCUSS APPLICATION FOR TODD M. HENDERSON, M.D., MIAMI, FL, WAIVER

Dr. Craig briefly discussed Dr. Henderson's application for licensure and stated that he has sent a response concerning why it took him longer than seven (7) years to complete all steps of the USMLE. Dr. Craig advised that he had discussed his attempts as well as financial issues and that he felt his explanation was reasonable to grant the waiver.

Motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that sufficient documentation was presented that provides extenuating circumstances for a waiver to be granted.

DISCUSS STEPHEN SUGGS, M.D., WEST LAKE VILLAGE, CA, APPLICANT

Dr. Craig briefly explained that Dr. Suggs' file was complete in July 2012, and that he did not schedule his jurisprudence examination and background check at the time his file was approved. At the current time, Dr. Suggs' file exceeds the one (1) year rule and has been declared null and void. The credentialing company is now requesting that his application be reopened.

Following a brief discussion, the Executive Committee unanimously agreed to write Dr. Suggs and request an explanation as to why he failed to schedule his jurisprudence exam and background check when his application was approved in July. Once Dr. Suggs responds, the Executive Committee will review and evaluate at the March meeting.

DISCUSS CURREN J. SANDERS, M.D., TUPELO, MISSISSIPPI MEDICAL LICENSE NUMBER 07708, PRACTICING WITH AN EXPIRED LICENSE

Dr. Craig advised that Dr. Sanders is 73 years old and had asked for a volunteer license and realized that he can't do what he wants to do and is now wanting to reinstate his permanent license. Dr. Craig advised that Dr. Sanders' license expired June 30, 2009, and that the Board's regulation states that prior to being reinstated any physician who has not actively practiced for a three year period shall be required to participate in a Board approved physician assessment program to assure post-licensure competency. Also, Dr. Craig advised that it appears that Dr. Sanders has been practicing medicine as a volunteer without a valid Mississippi medical license and that he should cease immediately.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously to issue a non-reportable letter of concern to Dr. Sanders advising him of the Board's regulation and that he must complete the assessment. Once received, the Board will review the evaluation prior to any consideration for reinstatement of licensure, as well as the fact that he is to cease practicing without a license immediately.

APPROVAL OF RECOMMENDATION FROM EXAMINING COMMITTEE'S FINAL REPORT PER MS CODE ANN § 73-25-55

M. SEAN ZALESKI, DPM, HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 80131

Dr. Craig briefly discussed the report from the Examining Committee as well as an email from Dr. Zaleski's attorney, Jeff Stewart. Dr. Craig advised that Dr. Zaleski had an evaluation at Palmetto and discussed the results. Dr. Craig also advised that Dr. Zaleski disagrees with their evaluation and has requested a meeting with the Podiatry Advisory Committee which is not appropriate after the referral by the Examining Committee. Dr. Craig advised that discussions are ongoing with his attorney and they are requesting his cooperation before any further input from the Board.

Following further discussion, motion was made by Dr. Easterling, seconded by Dr. Aycock, and carried unanimously to advise Dr. Zaleski that the Board expects him to follow the recommendations of the Examining Committee or the Board will take action to bring him before the Board for a hearing in the matter.

SUBPOENA REQUEST FOR MEDICAL RECORDS BY INVESTIGATIVE DIVISION ON:

1) Eric L. Thomas, M.D., McComb, Mississippi Medical License Number 17800
2) Majid Khan, M.D., Jackson, Mississippi Medical License Number 17822

A request was made by the Investigative Division to issue the above subpoenas.

After a brief discussion, the Executive Committee unanimously agreed that those facts necessary to make a determination of reasonable cause pursuant to Miss. Code Ann. 73-25-28, to subpoena and inspect records on the above physicians does exist. Motion was made by Dr. Easterling, seconded by Dr. Crawford, and carried unanimously to grant approval to issue the requested subpoenas.

DISCUSS REQUEST FROM JOHN HINKLE, ATTORNEY FOR DAVID STREET, M.D., NASHVILLE, TN, TO PERFORM A FORENSIC EVALUATION IN MISSISSIPPI

Dr. Craig discussed the request from a firm in Oxford to have Dr. Street examine an individual in Mississippi. Dr. Street does not have a Mississippi license and has not been consulted by a Mississippi physician. The Board's rules and regulations allow an evaluation for court purposes.

Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to have the Board's attorney, Stan Ingram, communicate with Dr. Street and his attorney for clarification as to the exact need of the examination and advise the Board of their response.

REVIEW OF JANUARY 24, 2013, BOARD AGENDA

Dr. Easterling briefly discussed the Board's agenda for Thursday's meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:00 p.m.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
January 23, 2013

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, Peter L. Hercules, 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: BARRY COCKRAL)

   ___ without legal counsel present

EXECUTED, this the 23rd day of JANUARY, 2012.

LICENSEE

Witness: Sherry Pilgrim

HONOLULU
NAME PRINTED

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, Louis J. Saddler, 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.

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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 23 day of Jan, 2013.

_____
LICENSEE

Witness: Sherry Pilgrim Louis Saddler
NAME PRINTED

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 24, 2013

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, January 24, 2013, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
William S. Mayo, D.O., Oxford
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
Deanne Saltzman, 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

Not present:

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. Easterling, President. The invocation was given by Dr. Aycock, and the pledge was led by Dr. Crawford. Dr. Easterling welcomed Melissa Magee, Court Reporter, extended a welcome to Deanne Saltzman, filling in for Ellen O'Neal at today's meeting, as well as welcoming all visitors present at the meeting.

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

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD NOVEMBER 01, 2012, THROUGH DECEMBER 31, 2012

One hundred ninety-five (195) licenses were certified to other entities for the period November 01, 2012, through December 31, 2012. Motion was made by Dr. Crawford, seconded by Dr. Mayo, and carried unanimously to approve the certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD NOVEMBER 01, 2012, THROUGH DECEMBER 31, 2012

Sixty-five (65) licenses were issued for the period of November 01, 2012, through December 31, 2012. Motion was made by Dr. Miles, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED NOVEMBER 14, 2012, AND MINUTES OF THE BOARD MEETING DATED NOVEMBER 15, 2012

Minutes of the Executive Committee meeting dated November 14, 2012, and Minutes of the Board meeting dated November 15, 2012, were reviewed. Dr. Merideth moved for approval of the minutes as submitted. Dr. Mayo seconded the motion and it carried unanimously.

REPORT OF JANUARY 23, 2013, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered a number of appearances and issues that were discussed by the Executive Committee on January 23, 2013. Information pertaining to the Executive Committee decisions is included in the Executive Committee minutes dated January 23, 2013.

Dr. Easterling stated that the Executive Committee moves that their actions/decisions be approved with the exception of Dr. Zaleski and Dr. Hawley which both had been referred by the Executive Committee to the Full Board today. Motion was made by Dr. Mayo, seconded by Dr. Chance, and carried unanimously to ratify the decisions of the Executive Committee with the exception of Dr. Zaleski and Dr. Hawley.

Dr. Easterling stated that Dr. Hawley will complete residency in Internal Medicine at Magnolia Regional Health Center in Corinth in July of this year. Dr. Easterling stated that Dr. Hawley will only have 18 months sobriety when he completes his residency and that he has been offered a job at the hospital which requires a permanent license. Dr. Easterling stated the Board's requirement is two (2) years sobriety and that basically Scott Hambleton, M.D., Director of the Mississippi Professionals Health Program

(MPHP) had sent a letter to the Board explaining the issue and requesting the waiver.

Dr. Hambleton addressed the Board and responded to several questions and stated that Dr. Hawley had agreed to sign a five (5) year monitoring contract with MPHP instead of the normal two (2) year monitoring contract.

Motion was made by Dr. Mayo, seconded by Dr. Brunson, and carried unanimously to grant the requested waiver.

Dr. Easterling then made a recommendation that the Board consider going into Executive Session to discuss the matter of Dr. Zaleski as the matter could adversely affect Dr. Zaleski's Mississippi medical license. Motion was made by Dr. Mayo, seconded by Dr. Aycock, and carried unanimously that the Board enter into Executive Session to discuss the matter that could adversely affect Dr. Zaleski's license. When the Board returned from Executive Session, Dr. Easterling asked Dr. Aycock to report and he stated that no decision was made and the matter was referred to the end of the day to have time for more legal research.

OTHER BUSINESS

SPECIAL MEETING AT FSMB TO EXPLORE MEDICAL LICENSURE MODELS HELD JANUARY 16 - 17, 2013

Dr. Easterling advised that Dr. Mayo and Dr. Craig had attended the meeting at the Federation concerning licensure models and asked that they report on their trip.

Dr. Mayo stated that the meeting concerned the push for a national medical license as well as a specific license for telemedicine. Both Dr. Craig and Dr. Mayo stated that the Board needs to try to work on some kind of expedited license.

REPORTS FROM COMMITTEES

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

Dr. Brunson advised that the committee met this morning and worked on the final changes to the regulation and discussed the main changes. Dr. Brunson stated that the committee has worked closely with Dr. Rush, Director of the Board of Nursing, and stated that the committee was requesting motion to file. Following a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously to table and bring back before the Board at the end of the day to allow everyone time to read through the proposal.

Professionals Health Program - Dr. Chance (Chair), Dr. Crawford, Dr. Aycock

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

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

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

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

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

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

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

Licensure Process - Dr. Brunson (Chair), Dr. Craig, Ms. Freeman

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

PRESENTATION OF MISSISSIPPI PRESCRIPTION MONITORING PROGRAM BY DEBORAH BROWN, WITH THE MISSISSIPPI BOARD OF PHARMACY

Deborah Brown, with the Mississippi Board of Pharmacy, gave a very informative tutorial of the steps that a physician uses to register for the program as well as explained how utilizing the program will assist them in their practice.

After responding to several questions from Board members, Dr. Easterling thanked Ms. Brown for appearing and providing the presentation.

THE BOARD RECESSED AT 10:20 A.M. AND RETURNED AT 10:35 A.M.

BRIDGET SMITH, M.D., APPLICANT, REQUESTING WAIVER

Dr. Easterling advised that the issue of Dr. Smith came before the Executive Committee yesterday. Dr. Easterling advised that it took Dr. Smith over the 7 year limit to complete all steps of the USMLE and that yesterday the Executive Committee decided to request an explanation for the waiver.

Dr. Smith addressed the Board and explained a family illness and other family issues that she was handling and failed to complete all steps within the 7 year

requirement. Dr. Smith advised the Board that she plans to take her Board certification in September.

Following several questions from Board members, motion was made by Dr. Aycock, seconded by Dr. Merideth, and carried unanimously that her explanation was sufficient and provides extenuating circumstances for a waiver to be granted.

HEARING IN THE CASE OF SANTANU SOM, D.O., NATCHEZ, APPLICANT FOR REINSTATEMENT

Joel Howell, attorney for Dr. Som, addressed the Board in Dr. Som's absence. Mr. Howell discussed the 2010 Consent Order that the Board issued to Dr. Som and that Dr. Som had sought additional training but did not complete the program. In 2012, the Board issued a Show Cause to Dr. Som and that a proposal had been submitted to the Board for additional training, yet no response had been given. Mr. Howell stated that in the event the Board does not accept the proposal for training that he is here requesting a continuance until the March Board meeting.

Mr. Ingram addressed the Board and stated that Dr. Som currently does not have a Mississippi medical license and that the Show Cause issued explained why Dr. Som not be granted reinstatement.

Following a brief discussion concerning the training Dr. Som has completed and the proposal Dr. Som was requesting, concerns were raised by several Board members as the proposal was requesting a 2 to 4 week training course in India. Several Board members had concerns with the request as it seems abbreviated from the Board's original request, as well as the uncertainty that the course in India was even Board approved.

Motion was made by Dr. Mayo, seconded by Dr. Jones, and carried unanimously to grant the request for a Continuance until the March Board meeting or until a proposal is resubmitted that meets the Board's requirements. A copy of the Order of Continuance is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Melissa Magee, Court Reporter.

HEARING IN THE CASE OF ROBERT S. CORKERN, M.D., BATESVILLE, MISSISSIPPI MEDICAL LICENSE NUMBER 12101

Before the hearing started, Dr. Merideth stated that he would recuse himself as

he was in medical school with Dr. Corkern and asked to be notified when the hearing was complete so he could participate in the remainder of the meeting.

DR. MERIDETH EXITED THE MEETING AT 10:45 A.M.

Stan Ingram, Complaint Counsel for the Board, addressed the Board and introduced Dr. Corkern, as well as Bonnie Bridgers Smith and Hal Neilson as attorneys for Dr. Corkern.

Exhibits were entered into the record and both sides made opening statements. Mr. Ingram discussed the Motion in Limine that was denied by the Executive Committee at the meeting yesterday and explained that the motion was to keep past disciplinary issues out of the hearing today as they felt it was irrelevant to the charges in the Summons and Affidavit.

Mr. Ingram discussed the counts in the Summons and Affidavit and stated that bribery is an act of unprofessional conduct and that Dr. Corkern has already pled guilty to Count 13 of a Federal indictment, which consisted of Federal Program Bribery 18 U.S.C.,§ 666. Mr. Ingram stated that initially Dr. Corkern pled not guilty but later changed his plea to guilty to Count 13 and all other charges were dropped. Mr. Ingram discussed the specifics of the sentencing that took placed in December 2012. Mr. Ingram stated that Dr. Corkern had his day in court and by virtue of his guilty plea he plead guilty to a felony conviction of bribery which is a crime of moral turpitude.

Mr. Neilson addressed the Board in Dr. Corkern's defense and stated that Dr. Corkern takes full responsibility for his plea.

Dr. Corkern was the first witness called to the witness stand and was sworn in by the court reporter. Dr. Corkern was questioned by both Mr. Ingram and Mr. Neilson before responding to questions from Board members.

THE BOARD RECESSED AT 12:20 P.M. FOR LUNCH AND RECONVENED AT 1:15 P.M.

Christi McCoy, an attorney from Oxford, was the next witness called to witness stand and sworn in by the court reporter. Ms. McCoy was accepted as an expert witness and explained that she specifically handles federal criminal defense cases. Mr. Ingram objected to any testimony by Ms. McCoy that concerns guilt or innocent since Dr. Corkern has already pled guilty.

Ms. McCoy responded to questions from Mr. Neilson and Mr. Ingram before responding to questions from the Board members.

Stancil Harvey, Chief Executive Officer/President, of Delta Regional Medical Center was the next witness called to the witness stand and sworn in by the court reporter. Mr. Harvey responded to questions from Ms. Bridgers Smith concerning Dr. Corkern's work in the emergency room at the hospital and discussed several letters that had been entered as exhibits from staff and employees.

Mr. Harvey was questioned by Mr. Ingram as well as responded to several questions from Board members.

Amy Walker, N.P., Vice President/Quality, of Delta Regional Medical Center was the next witness called to the witness stand and sworn in by the court reporter. Ms. Walker responded to several questions from Ms. Bridgers Smith.

Mr. Ingram had no questions for Ms. Walker, but she responded to several questions from Board members.

Philip Doolittle, M.D., Delta Regional Medical Center, was the next witness called to the witness stand and sworn in by the court reporter. Dr. Doolittle explained his position at Delta Regional Hospital and responded to several questions from Mr. Ingram and Board members.

Following closing comments by both sides, motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried that the Board enter into Executive Session to discuss a matter that could adversely affect Dr. Corkern's Mississippi medical license.

Motion was made by Dr. Chance, seconded by Dr. Mayo, and carried that the Board come out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock stated that the Findings of Fact show that Dr. Corkern pled guilty to a Federal felony and the Board finds Dr. Corkern guilty of counts 1 and 2 and thereby revokes his medical license. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Melissa Magee, Court Reporter.

DR. MERIDETH RETURNED AT 3:20 P.M.

APPROVAL OF CONSENT ORDER FOR PATRICK E. WELDON, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 18780

Dr. Craig advised that Dr. Weldon had appeared before the Board several months ago and had been sent a Consent Order placing terms, conditions, and

restrictions on his license concerning a letter that he had sent misrepresenting his credentials and charging him with unprofessional conduct. Dr. Craig advised that he had returned the Consent Order for the Board's acceptance and approval.

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

CASSANDRA FAYE THOMAS, M.D., RIDGELAND, MISSISSIPPI MEDICAL LICENSE NUMBER 13653, SURRENDER

For informational purposes, Dr. Craig advised that the Board has received a Voluntary Surrender from Dr. Thomas after she was found guilty and charged with Conspiracy, Health Care Fraud, False Statements Relating to Health Care Matters, Theft of Government Funds, and Wire Fraud. Motion was made by Dr. Crawford, seconded by Dr. Miles, and carried unanimously to accept Dr. Thomas' Surrender. A copy of the Surrender is attached hereto and incorporated by reference.

CHARLES H. WILLIAMS, M.D., FLOWOOD, MISSISSIPPI MEDICAL LICENSE NUMBER 08447, ORDER OF PROHIBITION

For informational purposes, Dr. Craig advised that the Board had issued an Order of Prohibition to Dr. Williams and currently he has disappeared out of state. A copy of the Order of Prohibition is attached hereto and incorporated by reference.

ERIC L. THOMAS, M.D., MCCOMB, MISSISSIPPI MEDICAL LICENSE NUMBER 17800, ORDER OF PROHIBITION

For informational purposes, Dr. Craig advised that the Board had issued an Order of Prohibition to Dr. Thomas due to MPHP violations and that Dr. Thomas has entered treatment. A copy of the Order of Prohibition is attached hereto and incorporated by reference.

OTHER BUSINESS

Motion was made by Dr. Easterling, seconded by Dr. Aycock, and carried that the Board enter into Executive Session to complete the discussion concerning Dr. Zaleski and a matter that could adversely affect his medical license.

The Board came out of Executive Session and advised that they had decided to refer the case to the Podiatry Advisory Committee. Dr. Craig was asked to contact the Podiatry Advisory Committee concerning the matter.

REQUEST APPROVAL TO ADD ADDITIONAL CME COURSES TO PROFESSIONAL BOUNDARY INC, (PBI) LIST OF BOARD APPROVED CME COURSES

Dr. Craig briefly discussed the information sent to the Board concerning PBI's request for approval to add additional CME courses to the Board's approved list. After a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Miles, and carried unanimously to approve PBI's request.

APPROVAL FOR BOARD AND STAFF MEMBERS TO ATTEND THE ADMINISTRATORS IN MEDICINE AND ANNUAL FEDERATION OF STATE MEDICAL BOARDS MEETING IN BOSTON, MA, APRIL 17 - 20

Motion was made by Dr. Mayo, seconded by Dr. Chance, and carried unanimously to approve the expenses for individuals attending the meetings in Boston in April.

PROPOSED 2013 LEGISLATION

Dr. Craig advised that the proposed legislation did not make the cutoff date this year.

2012 ANNUAL REPORT

For informational purposes, Dr. Craig advised that the 2012 Annual Report was on the Board's website for review.

ETHICS STATEMENT OF ECONOMIC INTEREST DUE BY MAY 1, 2013 (HANDLE ONLINE)

Dr. Craig reminded the Board members of the requirement to go online and complete their Ethics Statement of Economic Interest. A reminder will be sent out in April to all Board members.

RICHARD CHARLES MENDEL, M.D., COLUMBUS, MISSISSIPPI MEDICAL LICENSE NUMBER 21340, SURRENDER

For informational purposes, Dr. Craig advised that the Board has received a Voluntary Surrender from Dr. Mendel. A copy of the Surrender is attached hereto and incorporated by reference.

PROPOSED REGULATION CHANGES TO TITLE 30, PART 2630, CHAPTER 1, COLLABORATION/CONSULTATION WITH NURSE PRACTITIONERS

Dr. Easterling advised that the proposed regulation changes relating to collaboration/consulting with nurse practitioners had been tabled earlier and opened the floor for discussion. Following several comments and questions, motion was made by Dr. Mayo, seconded by Dr. Miles, and carried unanimously to file the proposed regulations with the Secretary of State's office. A copy of the proposed amendment of the regulation is attached hereto and incorporated by reference. The proposed amendment regulation will be filed with the Secretary of State under the Administrative Procedures Act.

ADJOURNMENT

There being no further business, the meeting adjourned at 3:50 p.m., with the next meeting scheduled for Thursday, March 21, 2013.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
January 24, 2013

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

SANTANU SOM, D.O.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on January 24, 2013, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Santanu Som, D.O., (hereinafter "Licensee"). 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 March 21, 2013.

SO ORDERED, this the 24th day of January, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

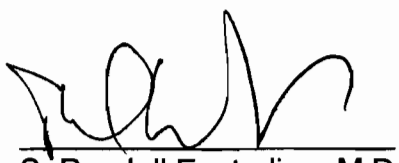
S. RANDALL EASTERLING, M.D.
PRESIDENT

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 24, 2013

AGENDA ITEM: XI. Hearing in the case of Robert S. Corkern, M.D.

In a motion by Dr. Mayo, seconded by Dr. Crawford, Finding of facts show Dr. Corkern plead guilty to a Federal felony and the Board finds Dr. Corkern guilty of Counts 1 and 2 of the Order.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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.			Recuse	
Charles D. Miles, M.D.	X			



S. Randall Easterling, M.D.
President

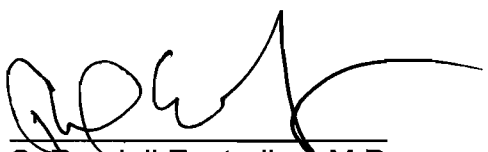
EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 24, 2013

AGENDA ITEM: XI. Hearing in the case of Robert S. Corkern, M.D.

In a motion by Dr. Miles, seconded by Dr. Mayo, the Board revokes Dr. Corkern's Mississippi medical license after finding him guilty of Counts 1 and 2.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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.			Recuse	
Charles D. Miles, M.D.	X			

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



S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ROBERT S. CORKERN, M.D.

ORDER DENYING MOTION IN LIMINE

AND

DETERMINATION AND ORDER

THIS MATTER came on regularly for hearing on January 24, 2013, 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 December 4, 2012, by issuance of a Summons and Affidavit against Robert S. Corkern, M.D., (hereinafter "Licensee") setting forth two (2) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee was present for the hearing, represented by Honorable Bonnie Bridgers Smith and Hal Nielsen. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Deanne B. Saltzman, Assistant Attorney General. Board members present for all of the proceeding were, S. Randall Easterling, M.D., President; Virginia M. Crawford, M.D., William S. Mayo, D.O.; Larry B. Aycock, M.D.; Claude D. Brunson, M.D.; Rickey L. Chance, D.O.; Charles D. Miles, M.D. and William B. Jones, M.D. Board member Phillip Merideth, M.D., J.D., recused himself from the proceedings.

Before commencement of the hearing, S. Randall Easterling, M.D., President announced that the Executive Committee of the Board heard arguments on Wednesday, January 23, 2013 in response to a Motion in Limine filed by Licensee to prevent the Complaint Counsel for the Board from introducing 2010 and 2011 disciplinary actions by the Board pertaining to Licensee, including, but not limited to the January 21, 2010, Consent Order, the June 21, 2010, Summons and Affidavit, the July 22, 2010, Determination and Order, and September 22, 2011, Determination and Order of the Board. It was the decision of the Committee to deny the motion. Attorneys for Licensee reaffirmed their objection. Upon consideration of the same, the motion was denied. The hearing then proceeded.

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

FINDINGS OF FACT

1. Licensee is the current holder of Mississippi Medical License No. 12101 to practice medicine in the State of Mississippi, said License expiring June 30, 2013.

2. On or about September 21, 2011, Licensee was indicted before the U.S. District Court for the Northern District of Mississippi, Delta Division, in Case 2:11-cr-38, styled, United States of America vs. Robert S. Corkern, et al; said Superseding Indictment charging Licensee with multiple counts, one of which (Count 13) was violation of 18 U.S.C. Section 666 (Federal Program Bribery). Specifically, Count 13 charged Licensee with knowingly and corruptly giving a bribe by issuing a $25,000.00 check to the Panola County Administrator to ensure that Panola County would transfer $400,000.00 to Tri-Lakes Medical Center (TLMC) and Physicians and Surgeons Hospital Group (PSHG), both

entities in which Licensee had a controlling interest. But for the $25,000 bribe from Licensee, the Panola County Administrator would have asserted that PSHG/TLMC was not entitled to the entire $400,000 and that Panola County had a legal claim to retain at least a portion of the $400,000.

3. In addition to Count 13, the Superseding Indictment entered on September 21, 2011 charged Licensee with four other counts (Count Nos. 8, 9, 10 and 11). Licensee initially pled not guilty to all counts. However, on December 28, 2011, Licensee entered a Plea Agreement with the US Attorney, wherein Licensee agreed to plead guilty to Count 13 of the aforementioned Superseding Indictment in exchange of the U.S. Attorney not pursuing the remaining counts.

4. On January 9, 2012, Licensee appeared before the U.S. District Court, Honorable Neal B. Biggers, Jr., to change his plea. Pursuant to the December 28, 2011 Plea Agreement, Licensee pled guilty to Count 13 (Federal Program Bribery). At the appearance, Licensee fully acknowledged that he knowingly and corruptly offered and gave a bribe for which he indirectly benefited from the $400,000.00 payment to the hospital through his various contracts with the hospital and his vested interest in the continued operation of said hospital.

5. On or about on November 13, 2012, Licensee appeared before the Hon. Neal B. Biggers, Jr., Judge for the U.S. District Court for Northern District of Mississippi, wherein he reaffirmed his plea of guilty to Count 13 of the Superseding Indictment as agreed, wherein Judgment was entered in the aforementioned criminal case (2:11-cr-38-NBB-DAS). Licensee was given time served and placed on supervised release for three (3) years, subject to certain conditions, including reporting to the US Probation Office, Home

Detention for twenty-four (24) months (wearing an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer), criminal penalty ($100.00) and restitution ($400,000.00).

CONCLUSIONS OF LAW

Licensee is guilty of Count One of the December 4, 2012, Affidavit issued by the Board by virtue of Licensee having been convicted of a felony involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, all in violation of Miss. Code Ann., § 73-25-29(6).

Licensee is guilty of Count Two of the December 4, 2012 Affidavit issued by the Board by virtue of conduct deemed unprofessional, which includes, but is not limited to being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., § 73-25-29(8)(d) and § 73-25-83(a).

During the hearing, Licensee attempted to minimize his conduct, through testimony describing the corrupt nature of his co-defendants and explaining that he had no choice but to enter a guilty plea based on the criminal procedures used before the U.S. District Court for the Northern District. However, when rendering sentence the U. S. District Court Judge described Licensee as an educated man, adding that Licensee knew what he was doing was wrong. The Board takes into consideration the testimony and evidence of Licensee's clinical and medical skills as an emergency room physician. However, the crime committed by Licensee is not a matter of clinical and medical skills, but a matter of moral character.

By his own testimony, Licensee acknowledged that bribery is a crime of moral turpitude and certainly constitutes unprofessional conduct.

ORDER

IT IS THEREFORE, ORDERED that based upon the Findings of Fact and Conclusions of Law enumerated above, that Mississippi Medical License No. 12101, duly issued to Robert S. Corkern, M.D., is hereby revoked.

IT IS FURTHER ORDERED, that Licensee shall reimburse the Board for all costs incurred in relation to this 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.

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 Robert S. Corkern, M.D. or his Counsel, Honorable Bonnie Bridgers Smith and Hal Nielsen.

SO ORDERED, this the 24th day of January, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

PATRICK ERNEST WELDON, M.D.

CONSENT ORDER

WHEREAS, PATRICK ERNEST WELDON, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 18780 issued on December 28, 2004, to practice medicine in the State of Mississippi;

WHEREAS, the Investigative Staff of the Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," has in its possession a letter dated July 10, 2010, from the American Board of Psychiatry and Neurology, Inc. The letter states in part that Licensee, ". . . misrepresented his ABPN credentials by presenting or causing to be presented, a forged letter on ABPN letterhead to at least two credentialing organizations." The letter also states that Licensee, ". . . passed Part I and Part II examinations in neurology held November 10-21, 2008. ". . . the letter was signed by a fictitious 'president,' John C. Boyd, M.D. ". . . Dr. Weldon has not passed either ABPN's Part I or Part II examination. ". . . no physician named John C. Boyd has ever been president of the ABPN . . ."

WHEREAS, on Licensee's 2004 licensure application, Licensee indicated that his primary specialty was neurology and his secondary specialty was internal medicine. Licensee is not board certified in either specialty.

WHEREAS, Licensee sent a letter dated September 26, 2012, to the Board that read, "I am writing to correct an error on my Mississippi Medical License. ". . . it states I am Board certified. ". . . I am not. ". . . this is my error, not yours, and I am seeking to rectify this error. . ."

WHEREAS, the aforementioned is evidence indicating that Licensee has violated the Rules and Regulations of the Board "by presenting or causing to be presented," a forged letter in reference to his credentials, and Licensee is guilty of **UNPROFESSIONAL CONDUCT**, which includes, but is not limited to being guilty of dishonorable conduct likely to deceive, defraud or harm the public;

WHEREAS, the above enumerated conduct, if established before the Board, constitutes a violation of the Mississippi Medical Practice Act and specifically, Subsections (8)(d), (8)(f) and (13) of Miss. Code Ann. § 73-25-29, and Miss. Code Ann. § 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, it is the desire of Licensee to avoid a hearing before the Board and, in lieu thereof, has agreed to enter into this Consent Order subject to the terms, conditions and restrictions as specified below;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with the consent of Licensee as signified by his joinder herein, does hereby restrict Licensee's

certificate to practice medicine in the State of Mississippi, subject to the following terms and conditions:

1. Licensee shall attend and successfully complete a Continuing Medical Education (CME) course in medical ethics. The CME course required herein shall be American Medical Association (AMA) approved Category I credits. Any credit received for such course shall be in addition to the usual forty (40) hours of Category I credits required by Board regulation. Licensee will be required to be on-site while taking any and all CME courses, as courses can not be taken on-line or by other means.
2. Licensee shall report in writing to the Board within fifteen (15) days should his medical license in any state be subject to investigation or disciplinary action.
3. 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.
4. Licensee's medical practice shall be subject to periodic surveillance. The Board's Director, any member of the Board, or Investigator for the Board may perform an unannounced inspection of any clinic wherein Licensee practices, which may include a chart review of selected patient files.
5. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.
6. Should the Board hereafter receive documented evidence of Licensee violating any of the terms and conditions of this Consent Order, the Board shall have the

right to summarily suspend Licensee's certificate to practice medicine without a hearing, provided Licensee shall be given an opportunity for a due process hearing on the matter at the first available regular meeting date following issuance of the summary suspension.

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

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 further participation in any hearing or other 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 National Practitioner Data Bank and 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, 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, **PATRICK ERNEST WELDON, M.D.**, nonetheless, hereby waives his right to notice and a formal adjudication of charges, thereby placing the above enumerated terms, conditions and restrictions on his license to practice medicine in the State of Mississippi.

Executed, this the 11, day of Nov, 2012.

PATRICK ERNEST WELDON, M.D.

2013 **ACCEPTED AND APPROVED**, this the 24th, day of January, ~~2012~~, by the Mississippi State Board of Medical Licensure.

S. Randal Easterling, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CASSANDRA FAYE THOMAS, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, CASSANDRA FAYE THOMAS, M.D., hereinafter referred to as "Licensee," is the current holder of Medical License Number 13653, issued August 31, 1993, to practice medicine in the State of Mississippi;

WHEREAS, on April 8, 2011, Licensee was found guilty in the United States District Court for the Southern District of Mississippi, Jackson Division, before United States District Judge Dan Jordan (Case 3:08-cr-00170-DPJ-JCS), charging her with Conspiracy (18 USC 371) (Count 1); Health Care Fraud (18 USC 1347) (Count 2-3); False Statements Relating to Health Care Matters (18 USC 1035) (Counts 4-5); Theft of Government Funds (18 USC 641) (Count 6); and Wire Fraud (18 USC 1343) (Counts 7-10);

WHEREAS, such conduct, if established in a due process hearing before the Board, would constitute conviction of a felony or misdemeanor involving moral turpitude, a certified copy of the conviction order or judgment rendered by the trial court being prima facie evidence thereof, notwithstanding the pendency of any appeal; all in violation of Miss. Code Ann., Section 73-25-29(6), being grounds for which the

Mississippi State Board of Medical Licensure may revoke said license, or take any other action in relation to said license as 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 (No. 13653) to practice medicine in the State of Mississippi.

The Board recognizes that Licensee has appealed her conviction. In the event the appeal results in a reversal of the conviction, being the basis upon which the Board is authorized to initiate action pursuant to Miss. Code Ann. Section 73-25-29(6), Licensee shall have the right to file a petition with the Board seeking reinstatement of her current license. In the event the conviction is ultimately upheld, Licensee shall have the right upon completion of her criminal sentence and release from probation or parole, to seek return to the practice of medicine, but in such an event, Licensee must 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.

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.

EXECUTED this the 6th day of December, 2012.

Cassandra Faye Thomas, M.D.

Cassandra Faye Thomas, M.D.

ACCEPTED AND APPROVED this the 2nd day of January 2013 by the Mississippi State Board of Medical Licensure.

H. Vann Craig, M.D., Director
Mississippi State Board of Medical Licensure

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CHARLES HARTWELL WILLIAMS, M.D.

ORDER OF PROHIBITION

WHEREAS, Charles Hartwell Williams, M.D. (Licensee) was issued Medical License Number 08447 on August 8, 1978, by the Mississippi State Board of Medical Licensure (MSBML) to practice medicine in the State of Mississippi, said license valid until June 30, 2013;

WHEREAS, Licensee entered into a Recovery Contract Agreement (RCA) on or about March 8, 2010, with the Mississippi Professionals Health Program (MPHP) and the MSBML. Licensee, desiring to provide assurance of continued sobriety to the MPHP and MSBML, agreed to certain terms and conditions outlined within the aforementioned RCA, a copy of which is attached hereto as Exhibit "1";

WHEREAS, MSBML was notified by letter on November 28, 2012, by Scott Hambleton, M.D., Medical Director of the MPHP, that advocacy of License had been withdrawn due to that fact that Licensee "may have suffered a relapse, and may be experiencing a manic episode. At this point he is in violation of his Recovery Contract Agreement with MPHP. We are withdrawing advocacy for his ability to practice medicine with reasonable skill and safety. In my opinion, his continued ability to practice medicine represents a definite threat to the public health." The affidavit of Thomas Washington,

setting forth in further detail the facts and basis for the action to be taken herein is attached hereto as Exhibit "2".

WHEREAS, the Mississippi State Board of Medical Licensure has the authority pursuant to the aforementioned RCA to immediately prohibit Licensee from practicing medicine until such time that the Board has made a determination that Licensee is able to return to the practice of medicine with reasonable skill and safety to patients;

NOW, THEREFORE, IT IS HEREBY ORDERED that Licensee be immediately prohibited from practicing medicine until such time as he undergoes a complete evaluation for his mental illness at a treatment facility approved by the Mississippi State Board of Medical Licensure and receive advocacy of the MPHP.

IT IS FURTHER ORDERED, that a copy of this order shall be sent by registered mail or personally served upon Charles Hartwell Williams, M.D., and should be effective immediately upon receipt thereof.

ORDERED, this the 13TH day of December, 2012

By: H. Vann Craig

H. Vann Craig, M.D.
Executive Director
Mississippi State Board of Medical Licensure

I, Charles Ware, 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., at 7:09 AM on December 26, 2012.

Charles Ware

Charles Ware

@ MT Pleasant Marriott Courtyard, SC 2

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CHARLES HARTWELL WILLIAMS, M.D.

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

I, THOMAS WASHINGTON, Bureau Director, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. That CHARLES HARTWELL WILLIAMS, M.D. (Licensee) currently holds Mississippi Medical License Number 08447, said number valid until June 30, 2013.

2. That in December 2009, and in January 2010, the Mississippi State Board of Medical Licensure (Board) and the Mississippi Professionals Health Program (MPHP) received information concerning the sudden change in Licensee's behavior, mental stability and the ability to practice medicine with reasonable skill and safety to patients. Without formal Board action, Licensee agreed to submit to a comprehensive evaluation at Pine Grove's Professional Enhancement Program (PEP) per the Mississippi Disabled Physician Law.

3. That on February 24-26, 2010, Licensee was evaluated at PEP concerning his bizarre behavior. On February 24, 2010, Licensee was discharged from PEP with a discharge diagnosis of:

> **Axis I**: *Bipolar Disorder Type I, most recent episode manic. Current asymptomatic; Partner Relational Problem.* **Axis II**: *Deferred.*

PEP indicated that Licensee, by himself, was not capable of monitoring his bipolar disorder or able to seek appropriate treatment when necessary. PEP recommended that Licensee enter into a monitoring agreement with MPHP and be placed under psychiatric care. On March 8, 2010, Licensee signed a Lifetime Recovery Contract Agreement (RCA) with MPHP.

4. That in October 2011, MPHP received information indicating that Licensee had experienced a manic episode and had refused to take his medication. MPHP asked Licensee to go for an evaluation at Vanderbilt's Comprehensive Assessment Program (V-CAP) in Nashville, Tennessee. However, Licensee was unwilling to follow the recommendations of the MPHP and refused to go for treatment, per terms and conditions of his RCA. Because Licensee violated the terms and conditions of his RCA, MPHP withdrew its advocacy of Licensee and referred him back to the Board. On October 5, 2011, the Board served an Order of Prohibition on Licensee preventing him from practicing medicine in Mississippi until such time as he successfully completed a comprehensive evaluation at Vanderbilt and received advocacy from MPHP.

5. That on November 14-16, 2011, Licensee completed the Comprehensive Evaluation at V-CAP and was discharge with a Discharge Diagnosis of:

> **Axis I:** *Bipolar Disorder Type II, most recent episode hypomanic, with interepisode recovery.* **Axis II:** *No diagnosis, codependency feature.*

The report of the V-CAP Assessment also stated that Licensee was unfit to practice medicine, also recommending psychiatric stabilization with Licensee's psychiatrist as well as lifetime monitoring and advocacy from the MPHP. After being evaluated at

Vanderbilt and receiving subsequent stabilization, Licensee received advocacy of the MPHP, and his medical license was reinstated by the Board on January 19, 2012.

6. That on November 22, 2012, MPHP was notified that Licensee had closed his office, and was unreachable by telephone. MPHP received calls from other sources during the next few days concerning Licensee exhibiting bizarre behavior and possibly having another manic episode. Attempts by MPHP to contact Licensee were unsuccessful. As of the date of this affidavit, Licensee's whereabouts remains unknown to the Board, MPHP and Licensee's family

7. That in a November 28, 2012, letter from Scott Hambleton, M.D., Medical Director of MPHP, the Board was advised that MPHP has indefinitely withdrawn advocacy for Licensee effective November 28, 2012. In his letter, Dr. Hambleton noted in part, "It appears that Licensee may have suffered a relapse, and may be experiencing a manic episode. At this point, he is in violation of his Recovery Contract Agreement with MPHP. We are withdrawing advocacy of his ability to practice medicine with reasonable skill and safety. It appears that Licensee is not currently practicing medicine; however, he has an active Mississippi medical license. In my opinion, his continued ability to practice medicine represents a definite threat to the public health, and we are referring his case to your office for final disposition . . . " See letter dated November 28, 2012, attached hereto as Exhibit "A" and incorporated herein by reference.

8. Paragraph 18 of the RCA dated March 8, 2010, attached hereto as Exhibit "B" states, in part:

> *In the event I fail to comply with any or all of the conditions imposed by 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.

9. By his signature on the RCA, Licensee understands and recognizes the Board's authority to immediately prohibit Licensee from the practice of medicine until such time that the Board determines Licensee fit to return to the practice of medicine.

Thomas Washington, CMBI
Bureau Director
Mississippi State Board of Medical Licensure

SWORN TO AND SUBSCRIBED BEFORE ME, this the 13th day of December 2012.

Notary Public

STATE OF MISSISSIPPI
SHIRLEY A. THOMAS
NOTARY PUBLIC
ID No. 72226
Commission Expires
December 16, 2015
RANKIN COUNTY

Mississippi Professionals Health Program

Mississippi Professionals Health Committee

Kay Gatewood, Executive Director
625 Lakeland East Drive, Suite C
Jackson, Mississippi 39232-8817
(601) 420-0240 1-800-844-1446
Fax (601) 420-0290

George E. Wilkerson, M.D.
Medical Director
Cell: (601) 270-4478
george4209@msn.com

DATE: MARCH 8, 2010

NAME: CHARLES HARTWELL WILLIAMS, MD MPHP NO. 0316-P

HOME ADDRESS: ~~2238 East Manor Drive~~
~~Jackson, MS 39211~~
204 Parton Cove
Madison, MS 39110

HOME PHONE NUMBER 601-982-4050

E-MAIL ADDRESS: chwilliams717@att.net

PRACTICE LOCATION ADDRESS: Lakeland Family Clinic
1000 Lakeland Square Ext., Suite 800
Jackson, MS 39232

OFFICE PHONE NUMBER: 601-939-9811

OFFICE FAX NUMBER: 601 939 7272

CELL NUMBER: (601)573-2936

SPECIALTY: FAMILY MEDICINE

RECOVERY CONTRACT AGREEMENT

IN CONSIDERATION of the Mississippi Professionals Health Program (MPHP) agreeing to assume an active advocacy role on my behalf with the Mississippi State Board of Medical Licensure (MSBML), or other licensing boards, hospital boards, managed care panels, malpractice carriers and other appropriate agencies, I CHARLES HARTWELL WILLIAMS, MD (Program Participant) hereby agree to comply with the following terms and conditions:

1. **Total Abstinence.** I agree to abstain completely from the use of any medications with mood-altering properties unless ordered by my Primary Care Physician and, when appropriate, in consultation with the MPHP.

   I agree not to prescribe, dispense or administer to myself any drug having addiction-forming or addiction-sustaining liability. I understand it is the strong recommendation of the MSBML that physicians do not treat themselves or family members in any way.

2. **Urine and/or Tissue Screens.** Should MPHC desire, I agree to provide random urine and/or blood drug screens as directed by the MPHC. I understand the MS State Board of Medical Licensure will receive a copy of any positive screens collected by MPHC. I understand that I am responsible for all costs related to drug screening, and that failure to pay for screens is a violation of my contract. I understand I do not have a history of chemical dependency and that urine screening is not anticipated.

3. **Other Screening.** While unusual, I understand I am subject to further verification of my recovery, which may include hair analysis and polygraph testing.

4. **Primary Care Physician.** I have selected Dr. R. Allen Sheely Jr. (subject to approval by MPHC) as my Primary Care Physician, located at 501 East Main Drive Florrom MS office phone 601-992-7288.

   I agree to provide the MPHP with a release for the purpose of monitoring any treatment provided to me by my Primary Care Physician and/or any specialist he may refer me to.

   I agree that in the event my Primary Care Physician or specialist determines that it is necessary to administer, dispense or prescribe to me any drug having addiction-forming or addiction-sustaining liability for periods in excess of one (1) month, the Primary Care Physician shall notify the MPHP by phone, fax or in writing, to the attention of the Medical Director, within twenty-four (24) hours of administration, dispensation or issuance of any prescription. This requirement shall also apply to any care rendered to me by a dentist. The responsibility to ensure that the primary care physician or dentist files the required notification rests with me.

5. **Psychiatric Physician.** I agree to see Dr Mark McLain, psychiatrist, located at 576 Highland Colony Pkwy Ridgeland MS, phone 601-853-2676 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.

6. **Marital Counseling.** It has been recommended that my wife and I seek marital counseling. I agree to participate with my wife and see Dr. James Brown, marital counselor, located at 1151 N. State St. #212, Jackson, MS, phone (601) 352-7398 on a schedule to be determined by our therapist. Therapy will conclude upon mutual agreement with my therapist. Quarterly compliance reports will be sent to MPHP.

7. **Workplace Monitor.** I understand that a Workplace Monitor has been recommended, and I have chosen Susan Tolbert, located at Lakeland Family Clinic, phone 601-879-9811 to be my Workplace Monitor. My Workplace Monitor will report any problem occurring at work immediately, and otherwise quarterly, to MPHP

8. **Physician Medication Monitor.** I understand it is my responsibility to clear any and all medication prescribed by any provider through an approved Monitoring Physician. If appropriate, MPHC may approve my primary care physician to serve in both capacities. I will immediately provide MPHP with copies of any mood-altering medication prescribed to me. My Monitoring Physician is Dr R. Allen Sheely located at 151 East Metro Drive, Flowood MS, office phone 601-992-3288.

9. **Annual Retreat Attendance.** I agree to attend the Annual Retreat, held each July, and any other program MPHP may sponsor.

10. **Reporting Requirements.** I agree to contact the office of the MPHP by **phone at least one time** per month.

11. **Medical Release and Authorization.** I agree to provide appropriate release forms for urine drug screen results, treatment center records, therapist reports, and other written and verbal information required to comply and in compliance with the above request.

    Any refusal on my part to execute a medical release deemed necessary to accomplish the above exchange of information or any act on my part which may be interpreted as a revocation of a previously executed release, shall be deemed a violation of this Agreement and shall be immediately reported to the MPHP or the MSBML.

12. **Periodic Re-evaluation.** I agree to appear before the MPHC located in Jackson, MS for periodic re-evaluation when scheduled by the MPHC.

13. **Honest Disclosure.** I understand my ethical and contractual obligation to honestly and completely answer any and all application questions regarding my recovery and participation with MPHP. Such questions may appear on application or reappointment materials with practice groups, hospital credentialing groups, state licensing boards, malpractice carriers, etc. Deception or dishonesty in reporting reflect negatively on my recovery and MPHP in its role as my advocate. When in doubt, I will call MPHP for guidance. Infractions regarding dishonesty are viewed seriously and will result in a report to the Board of Medical Licensure and possible recommendations for further treatment, contract extension or loss of advocacy.

14. **Statutory Compliance.** I agree to obey all federal, state and local laws and all rules governing the practice of medicine in the State of Mississippi.

15. **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.

16. **Notification of Change in Status.** I agree to notify the MPHP of any change in my physical or mental health, my residence or place of employment.

I agree that should I, during the period of this contract, decide to leave Mississippi to reside in or practice in another state, MPHP hereby has my authorization to notify the appropriate State Licensure Board and/or Professionals Health Program of my residence and/or practice in that state.

I further agree to notify the MSBML in writing, within ten (10) days prior to departing this state to practice in another state. Unless, I affiliate with a recovery program recognized by the MSBML and MPHP, periods of residency or practice outside Mississippi will not apply to the reduction of time periods specified in this Monitoring Contract Agreement.

17. **Payment of Costs.** I agree to pay annual MPHP dues and fees when billed.

18. **Breach of Contract.** I understand that ANY breach of this contract will be grounds for re-evaluation by the MPHC with possible report to the MSBML.

In the event I fail to comply with any or all of the conditions imposed by 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 the event of violation of this agreement, any action by the MSBML may be deemed disciplinary action, and all documents relating thereto, including this Agreement, shall thereafter be deemed public record and reportable to the Federation of State Medical Boards, the National Practitioner Data Bank and other entities requiring MSBML reporting.

19. **Hold Harmless Agreement.** As an express condition for participation, I hereby release and forever discharge the MPHP, MPHC and the MSBML, their respective agents, representatives, employees, staff members, and all personnel designated by the MPHP, MPHC or MSBML to assist me, and each of them and all of them, past, present and future from any claims, demands, obligations, costs of any kind or nature whatsoever, arising out of any action of commission or omission in connection with my participation in the Mississippi Professionals Health Program.

20. CHECKLIST:
    1. Urine drug screen if directed by MPHP.
    2. Quarterly reports from psychiatrist and psychologist.
    3. Annual fees when billed.
    4. Attend Annual Retreat.

NOTE: ALTERATIONS OF THIS CONTRACT CANNOT BE MADE WITHOUT PRIOR WRITTEN APPROVAL FROM THE MEDICAL DIRECTOR AND/OR THE MPHC.

Medical Director, MPHP	**Date**	**MPHC Chairman**	**Date**
Director, MSBML	**Date**	**Program Participant**	**Date**

cc: Program Participant
Director, MSBML
Workplace Monitor
Primary Care Physician
Psychiatrist
Marital Counselor

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ERIC L. THOMAS, M.D.

ORDER OF PROHIBITION

WHEREAS, ERIC L. THOMAS, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 17800, said number valid until June 30, 2013;

WHEREAS, on November 15, 2012, the Mississippi State Board of Medical Licensure (Board) received a letter from the Mississippi Professionals Health Program (MPHP) regarding Licensee. MPHP informed the Board that MPHP had indefinitely withdrawn advocacy for Licensee, effective November 12, 2012. Licensee was under his fifth Recovery Contract Agreement (RCA) in eight years;

WHEREAS, the Board is now in possession of documents establishing that MPHP has withdrawn advocacy due to Licensee violating the current RCA, as evidenced by the supporting affidavit attached hereto;

WHEREAS, paragraph 20 of the RCA dated August 10, 2009, states, in part:

> *In the event I* {Licensee} *suffer a relapse and/or fail to comply with any or all of the conditions imposed by 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 me to undergo further evaluation for chemical dependency.*

WHEREAS, by virtue of violation of the aforementioned RCA, the Board has the authority to prohibit Licensee from practicing medicine until such time as the Board determines that Licensee may return to the practice of medicine;

NOW, THEREFORE, IT IS HEREBY ORDERED, that, as a result of the aforementioned letter and Licensee's well documented history of non-compliance as set forth by the affidavit, Licensee shall be prohibited from the practice of medicine until such time as the Board determines that Licensee may 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 ERIC L. THOMAS, M.D., and shall be effective immediately upon receipt thereof.

ORDERED this the 28th day of November, 2012.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

H. Vann Craig

H. Vann Craig, M.D.
Executive Director

I, Jonathan Dalton, Investigator for the Mississippi Board of Medical Licensure, did personally serve an original copy of this Order of Prohibition to Eric L. Thomas, M.D., at 2:40 p.m. on November 28, 2012.

Jonathan Dalton

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ERIC L. THOMAS, M.D.

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

I, Jonathan Dalton, Investigator, Mississippi State Board of Medical Licensure (Board), do hereby make oath that I have reason to believe and do believe:

1. That ERIC L. THOMAS, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 17800, said number valid until June 30, 2013.
2. That on June 14, 2004, Licensee entered into his first Recovery Contract Agreement (RCA) with the Mississippi Professionals Health Program (MPHP). Licensee signed the contract after having successfully discharged from Pine Grove's Next Step Program with a diagnosis of Opioid Dependence and Alcohol Dependence.
3. That on December 31, 2004, Licensee was re-admitted to Pine Grove's Next Step Program due to a relapse on alcohol and hydrocodone. At that time, Licensee signed a new five year contract, dated June 13, 2005, with MPHP.
4. That on February 11, 2008, Licensee signed another five year contract after self-reporting a relapse on alcohol.
5. That on June 19, 2009, Licensee was admitted to an intensive outpatient program at COPAC in Brandon, MS, due to a positive urine drug screen (UDS) for hydrocodone. Licensee signed a lifetime monitoring contract with MPHP on August 10, 2009.

6. That on November 15, 2012, the Board received a letter from MPHP Director Scott Hambleton, M.D., stating that MPHP could no longer advocate for Licensee due to a sequence of events which led to the decision. Dr. Hambleton stated in his letter that in March 2012, MPHP received information that Licensee may have been abusing steroids. MPHP was also notified of an investigation at Southwest Mississippi Regional Medical Center regarding disruptive behavior on the part of Licensee. Licensee was also issued a prescription for Testosterone and Licensee failed to report the prescription to MPHP or the Board, although Licensee never filled the prescription. The letter continued by stating that Licensee was instructed on October 26, 2012, to notify MPHP of the results of a testosterone test performed by his Urologist, William Duncan, M.D. Licensee faxed a prescription for Testosterone on November 6, 2012, to MPHP. The following day, on November 7, 2012, MPHP was contacted by Investigators with the Board regarding Licensee. It was determined through review of the Mississippi Prescription Monitoring Program (PMP) that Licensee filled a prescription, without approval from MPHP or the Board, for Testosterone that was written in April 2012.

7. That on November 8, 2012, MPHP ordered Licensee to submit to a urine drug screen to determine if anabolic steroids were in his system, as reported by sources previously. Licensee was also told to appear before the Mississippi Professionals Health Committee on Monday, November 12, 2012.

8. That on November 9, 2012, MPHP received further information that an equipment representative, who told the providing source the information, was approached by Licensee that morning. Licensee asked the equipment representative to provide a urine specimen that Licensee could use in place of his own urine for the anabolic steroid testing ordered the previous day by MPHP.

9. That notations contained within the aforementioned letter, attached as Exhibit "A", also include two missed call-ins to Affinity Health, which performed random urine drug screens on behalf of MPHP, on October 18, 2012, and again on November 7, 2012.

10. As a result of this sequence of events, and the subsequent finding that Licensee's recent actions constitute a fifth relapse, MPHP decided to withdraw advocacy after meeting with Licensee and after hearing Licensee's reasons for the decisions Licensee made regarding the prescriptions and the substituted urine sample. Licensee's case was then turned over to the Board for adjudication.

11. Paragraph 20 of the RCA dated August 10, 2009, attached as Exhibit "B", states, in part:

> *In the event I* {Licensee} *suffer a relapse and/or fail to comply with any or all of the conditions imposed by 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 me to undergo further evaluation for chemical dependency.*

12. By his signature on the RCA, Licensee understands and recognizes the Board's authority to immediately prohibit Licensee from the practice of medicine until such time that the Board determines Licensee fit to return to the practice of medicine.

Jonathan Dalton
Investigator
Mississippi State Board of Medical Licensure

SWORN TO AND SUBSCRIBED BEFORE ME, this the 28th day of November, 2012.

Frances E. Carrillo
Notary Public

FRANCES E CARRILLO
NOTARY PUBLIC
ID No. 34328
My Comm Expires
April 21, 2013
RANKIN COUNTY
STATE OF MISSISSIPPI

MISSISSIPPI PROFESSIONALS HEALTH PROGRAM

November 15, 2012

H. Vann Craig, MD, Executive Director
Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive, Suite 200B
Jackson, MS 39216

RE: Eric Thomas, MD

Dear Dr. Craig:

The purpose of this letter is to inform you that the Mississippi Professionals Health Program (MPHP) has indefinitely withdrawn advocacy for Dr. Thomas, effective November 12, 2012.

I have included a brief timeline which outlines his non-compliance and violations to his Recovery Contract Agreements with the MPHP.

5 Year Recovery Contract Agreement, June 14, 2004

Dr. Thomas was admitted into Pine Grove's Next Step Program on February 20, 2004 and was successfully discharged June 17, 2004.
Discharge Diagnosis: Axis I- Opioid Dependence; Alcohol Dependence.
Axis II- Deferred.

5 Year Recovery Contract Agreement, June 13, 2005

Dr. Thomas relapsed on alcohol and hydrocodone and was admitted into Pine Grove's Next Step Program on December 31, 2004. He was successfully discharged March 15, 2005.
Discharge Diagnosis: Axis I- Alcohol Dependence; Opioid Dependence, in early full remission; Adjustment Disorder, with mixed emotional features.
Axis II- Obsessive/Compulsive Traits.

EXHIBIT A

408 West Parkway Place • Ridgeland, Mississippi 39157-6010 • Ph: 601-420-0240 • Fax: 601-707-3792
www.msprofessionalshealth.com

5 Year Recovery Contract Agreement, May 8, 2006

Dr. Thomas relapsed on alcohol and was admitted into the Professional Renewal Center on March 28, 2005. He was successfully discharged on May 20, 2005.
Discharge Diagnosis: Axis I- Alcohol Dependence, in early full remission; Opioid Abuse, by history. **Axis II-** Avoidant (incorporating Social Anxiety Disorder Symptoms); Obsessive/Compulsive and Narcissistic Features.

Acumen Follow-ups:

12/5/05- 12/9/05
5/1/06- 5/3/06
8/1/07- 8/3/07
9/12/07- 9/14/07
1/27/08- 1/29/08

5 Year Recovery Contract Agreement, February 11, 2008

Dr. Thomas self-reported that he had relapsed on alcohol.

Lifetime Recovery Contract, August 10, 2009

Dr. Thomas tested positive for hydrocodone on a random urine drug screen and was admitted into an IOP Program at COPAC on June 19, 2009. He was successfully discharged on January 14, 2010.
Discharge Diagnosis: Axis I- Alcohol Dependence; Opiate Abuse; Social Phobia, by history; Depressive Disorder, NOS. **Axis II-** Deferred.

Acumen Follow-ups:

1/25/12- 1/27/12
9/10/12- 9/14/12

Current Issue:

In March, 2012, MPHP received a call from in McComb, MS stating that suspected Dr. Thomas was using Steroids. also informed us that a at Southwest Mississippi Regional Medical Center had opened an investigation on Dr. Thomas for his disruptive behavior related to an incident in the operating room. We preformed four random drug screens in March, 2012, as well as a screen for anabolic steroids on April, 2012, which were all negative. We know that Dr. Thomas' Urologist, Dr. William Duncan, wrote a prescription for Testosterone, 5 vials, 200mg per ml, with 5 refills. Although Dr. Thomas did not get the prescription filled, he did not notify MPHP or the MSBML about it, and he did not destroy it.

On October 26, 2012, Dr. Thomas had an unscheduled MPHP visit. He reported to Ms. Delchamps that his cholesterol and thyroid levels were normal, and that he would be going to see his Urologist, Dr. William Duncan next week to have his Testosterone levels checked. Ms Delchamps told him to call her with the results.

On November 6, 2012, Dr. Thomas faxed a prescription written by Dr. William Duncan for Testosterone 10 cc vial, 1 cc IM/weekly, with 6 refills, which is an illegal prescription. The next day, November 7, 2012, I received a call from two Board Investigators, Thomas Washington and Charles Ware, in regards to suspicious prescriptions written to Dr. Thomas. After receiving the prescription faxed to them on November 6, 2012, the investigators reported that on October 9, 2012, Dr. Thomas filled the prescription for Testosterone that was written in April. This prescription was not faxed to the MPHP or to the MSBML.

The same day, we contacted Dr. Thomas. He explained that he did not fill the prescription written in April, because he figured it would not be approved, considering his behavior issue at the hospital in April. He adamantly denied use of any Testosterone.

On November 8, 2012, urine drug testing for anabolic steroids was ordered and Dr. Thomas was asked by me during a telephone conversation to appear before the Mississippi Professionals Health Committee on Monday, November 12, 2012.

On Friday, November 9, 2012, I received a call from informed me that an equipment representative, reported to that Dr. Thomas had asked that morning, to provide a urine specimen that he could use, in order to replace his urine.

MPHC Meeting November 12, 2012

Dr. Thomas admitted to using OTC preparations, such as DHEA, but denied using testosterone. He stated that he was afraid his drug screen would be positive, so he asked to provide urine for him.

The committee informed him that they could not effectively monitor him, and withdrew advocacy, indefinitely. He was notified that his case would be referred to the MSBML for final determination.

Summary

As you know, this is Dr. Thomas' fifth Contract with the MPHP. He has relapsed numerous times on alcohol and opiates, and apparently he has experienced another relapse. He has also missed two call-ins to Affinity for his random drug screens on October 18, 2012, and again on November 7, 2012. Because of his numerous relapses, his inability to remain sober, and his failure to comply with his Recovery Contract Agreement, MPHP cannot continue to provide advocacy for his ability to practice medicine with reasonable skill and safety at this time. We are referring Dr. Thomas to you and the MSBML for final disposition.

If I can be of any further assistance, please do not hesitate to call.

Sincerely,

Scott Hambleton, M.D

Scott Hambleton, MD
Medical Director

Mississippi Professionals Health Program

Mississippi Professionals Health Committee

Kay Gatewood, Executive Director
625 Lakeland East Drive, Suite C
Jackson, Mississippi 39232-8817
(601) 420-0240
1-800-844-1446
Fax (601) 420-0290

Gary D. Carr, M.D., Medical Director
5192 Old Highway 11, Ste. 1
Hattiesburg, Mississippi 39402
(601) 261-9899
Cell: (601) 297-MRPP (6777)
Fax (601) 268-0376

DATE: AUGUST 10, 2009

NAME ERIC L. THOMAS, MD MPHP NO. 0169-P

RESIDENCE ADDRESS: 110 Belle Point Drive
Madison, MS 39110

HOME PHONE NUMBER: 662-617-1173

E-MAIL ADDRESS: elthomas51@bellsouth.net

PRACTICE LOCATION ADDRESS: Central MS Bone & Joint Specialists
1860 Chadwick Drive, Suite 203
Jackson, MS 39204

OFFICE PHONE NUMBER: 601-376-2818 or 376-1061

OFFICE FAX NUMBER: 601-376-2831

CELL NUMBER: 662-617-1173

SPECIALTY: ORTHOPAEDICS

EXHIBIT B

RECOVERY CONTRACT AGREEMENT

IN CONSIDERATION of the Mississippi Professionals Health Program (MPHP) agreeing to assume an active advocacy role on my behalf with the Mississippi State Board of Medical Licensure (MSBML), or other licensing boards, hospital boards, managed care panels, malpractice carriers and other appropriate agencies, I, ERIC L. THOMAS, MD, hereby agree to comply with the following terms and conditions:

1. **Total Abstinence.** I agree to abstain completely from the use of any medications, alcohol and other mood-altering substances including non-approved over-the-counter medications unless ordered by my Primary Care Physician and, when appropriate, in consultation with the MPHP/MSBML.

   I have been provided with a list of approved over-the-counter medications (Appendix A).

   I agree not to prescribe, dispense or administer to myself or family members any drug having addiction-forming or addiction-sustaining liability. I understand it is the strong recommendation of the MSBML that all recovering physicians do not treat themselves or family members in any way.

2. **Urine and/or Tissue Screens.** I agree to allow investigators of the MSBML to obtain random, unannounced, witnessed chain-of-custody urine/blood samples and agree to cooperate with them fully in this process. I shall provide to the MSBML a monthly work itinerary at the beginning of each month for the purpose of compliance with urine screen monitoring.

   I further agree to provide random urine and/or blood drug screens as directed by the MPHP in addition to any other screens which may be obtained by other agencies. I understand the MSBML will receive a copy of any screens collected by the MPHP and reciprocally MPHP will receive a copy of screens from the Board. I understand that I am responsible for all costs related to drug screening, whether at the request of the MSBML or MPHP and that failure to pay for screens is a violation of my contract.

3. **Other Screening.** While unusual, I understand I am subject to further verification of my recovery, which may include hair analysis and polygraph testing.

4. **Primary Care Physician.** I have selected Dr. [illegible] (subject to approval by MPHC) as my Primary Care Physician, located at 5345 [illegible] Jackson, office phone 601.923.5007.

   I agree to provide the MPHP and MSBML with a release for the purpose of monitoring any treatment provided to me by my Primary Care Physician and/or any specialist he may refer me to.

   I agree that in the event my Primary Care Physician or specialist determines that it is necessary to administer, dispense or prescribe to me any drug having addiction-forming or addiction-sustaining liability, the Primary Care Physician shall notify the MPHP by phone, fax or in writing, to the attention of the Medical Director, within twenty-four (24) hours of administration, dispensation or issuance of any prescription. I understand this information will be forwarded to the MSBML by the MPHP. This requirement shall also apply to any care rendered to me by a dentist. The responsibility to ensure that the primary care physician or dentist files the required notification rests with me.

5. **COPAC IOP Treatment and Recommendations.** I agree to successfully complete the IOP Treatment Program at COPAC in which I am currently engaged, and do agree to incorporate any recommendations they may make to me into my MPHP Contract and program of recovery.

6 **Physician Medication Monitor.** I understand it is my responsibility to clear any and all medication prescribed by any provider through an approved Monitoring Physician. If appropriate, MPHC may approve my primary care physician to serve in both capacities. My Monitoring Physician is _____ [illegible] as my located at COPAC _____, office phone 601.605.2500.

7. **Attendance at Self-Help Groups.** I agree to attend a self-help group such as AA or NA four (4) times per week. These meetings will be documented by calendar for my file, either by mail or FAX to the MPHP by the last day of each month. Home Group/location: [illegible] IOP aftercare

I agree to participate in continuing care group therapy at **Caduceus Club** meetings each week. My group facilitator is Drs. Mitch Hutto 601-201-2791 and Bill Burke 601-954-9490, Jackson Caduceus Group.

I agree to attend the **Annual Caduceus Club Retreat** and other special functions of the MPHP.

Other requirements (a) Obtain at least one (1) AA/NA sponsor.

8. **Reporting Requirements.** I agree to contact the office of the MPHP by phone at least once a month.

9. **Medical Release and Authorization.** I agree to provide appropriate release forms for urine drug screen results, treatment center records, therapist reports, and other written and verbal information required to comply and in compliance with the above request.

I hereby authorize the treatment center wherein I received treatment for chemical dependency, its administrator, medical staff and personnel, or any other treatment center or hospital to release to the MPHP/MSBML all records of any treatment. Additionally, I shall provide the MPHP/MSBML with authorization to obtain medical information for the purpose of monitoring or reviewing treatment or therapy that I have received from the treatment center. I agree and understand that there must be a free flow of information to and from the MPHP and MSBML, necessary to ensure my compliance with this Agreement, but most importantly, to ensure my continued recovery. In this regard, I hereby agree to execute any and other medical releases necessary to accomplish this goal. At any time, the MPHP and MSBML may freely communicate with, via telephone, facsimile, or personal interview, any individual or entity involved in my treatment and/or recovery, including but not limited to, any employee and/or representative of MPHP/MSBML, any hospital or health care facility in whom I have received treatment, any physician or other health care entity from which I have received medical and/or dental care, business associates, partners, friends and family. In so doing, I waive any and all privileges and rights of confidentiality which I would otherwise possess with respect thereto. This release and authorization is specifically granted in compliance with 42 U.S.C. §290(dd-2) (Confidentiality of Records of the Identity, Diagnosis, Prognosis and Treatment of Substance Abuse Patients) and 42 C.F.R. Part 2 (Regulations for Confidentiality of Alcohol and Drug Abuse Patient Records).

Any refusal on my part to execute a medical release deemed necessary to accomplish the above exchange of information or any act on my part which may be interpreted as a revocation of a previously executed release, shall be deemed a violation of this Agreement and shall be immediately reported to the MPHP/MSBML.

10. **Honest Disclosure.** I understand my ethical and contractual obligation to honestly and completely answer any and all application questions regarding my recovery and participation with MPHP. Such questions may appear on application or reappointment materials with practice groups, hospital credentialing groups, state licensing boards, malpractice carriers, etc. Deception or dishonesty in reporting reflect negatively on my recovery and MPHP in its role as my advocate. When in doubt, I will call MPHP for guidance. Infractions regarding dishonesty are viewed seriously and will result in a report to the Board of Medical Licensure and possible recommendations for further treatment, contract extension or loss of advocacy.

11. **Progress Reports/Access to Agreement.** I understand that a copy of any and all aftercare conditions and/or contracts and all other aspects of my recovery process shall be forwarded to the MSBML, Executive Director.

    I understand MPHP shall provide the MSBML with progress reports on a quarterly basis (or more often if requested to do so by the MSBML). Physicians referred to the MPHP by the Board will be reported on by name. Physicians referred to MPHP via other routes will be reported by number with their identity known only to the Executive Director of the Board and Investigative Staff charged with urine collections.

12. **Periodic Re-evaluation.** I agree to appear before the MPHC of the MPHP located in Jackson, MS for periodic re-evaluation when scheduled by the MPHC.

13. **Family and Spouse.** I will actively encourage my SPOUSE/SIGNIFICANT OTHER/FAMILY to involve themselves in continuing, supportive care through Al-Anon or other sources.

14. **Statutory Compliance.** I agree to obey all federal, state and local laws and all rules governing the practice of medicine in the State of Mississippi.

15. **Term.** I agree to the terms of this contract for the life of my medical practice (or until amended by MPHC), and I will follow this contract and any subsequent recommendations of the MPHC during my monitoring.

16. **Notification of Change in Status.** I agree to notify the MPHP/MSBML of any change in my physical or mental health, my residence or place of employment.

    I agree that should I, during the period of this contract, decide to leave Mississippi to reside in or practice in another state, MPHP hereby has my authorization to notify the appropriate State Licensure Board and/or Professionals Health Program of my residence and/or practice in that state.

    I further agree to notify the MSBML and MPHP in writing, within ten (10) days prior to departing this state to practice in another state. Unless, I affiliate with a recovery program recognized by the MSBML and MPHP, periods of residency or practice outside Mississippi may not apply to the reduction of time periods specified in this Monitoring Contract Agreement.

17. **Payment of Costs.** I agree to pay annual MPHP dues and fees when billed.

18. **Financial Responsibility:** I agree to be responsible regarding my financial obligations. I understand MPHC considers financial responsibility, in general, an important element of recovery. Specifically, I accept my financial responsibility to MPHP, my licensure board, laboratory screening services, therapist, psychiatrists, etc. Further, treatment facilities often extend treatment to program participants on credit in an effort to assist them with their recovery and the opportunity to resume work. MPHC fully expects that any outstanding debt to treatment providers/organizations be satisfied in a responsible and timely manner.

19. **Subpoena for Records.** Unless directed otherwise by the Program Participant, MPHC resists release of subpoenaed participant records to the fullest extent of the law. I understand that I am financially liable for all MPHC costs and attorney fees in such matters.

20. **Breach of Contract and/or Relapse.** I understand that ANY breach of this contract will be grounds for re-evaluation by the MPHC with an immediate report to the MSBML.

I understand that should I experience a relapse, this fact shall be immediately reported by the MPHC to the Executive Director of the MSBML. Such report will include, or be followed by MPHC's response to the relapse and its recommendations regarding the relapse. I understand that MPHC's recommendations regarding licensure/DEA issues are non-binding on the MSBML.

In the event I suffer a relapse and/or fail to comply with any or all of the conditions imposed by 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 me to undergo further evaluation for chemical dependency.

In the event of a relapse or violation of this agreement, any action by the MSBML may be deemed disciplinary action, and all documents relating thereto, including this Agreement, shall thereafter be deemed public record and reportable to the Federation of State Medical Boards, the National Practitioner Data Bank and other entities requiring MSBML reporting.

21. **Hold Harmless Agreement.** As an express condition for participation, I hereby release and forever discharge the MPHP, MPHC and the MSBML, their respective agents, representatives, employees, staff members, and all personnel designated by the MPHP, MPHC or MSBML to assist me, and each of them and all of them, past, present and future from any claims, demands, obligations, costs of any kind or nature whatsoever, arising out of any action of commission or omission in connection with my participation in the Mississippi Professionals Health Program.

22. CHECKLIST:
    1. Random, observed, urine drug screen as directed by MPHP/MSBML.
    2. Monthly calendar of AA and Caduceus Club meetings.
    3. Annual fees when billed.
    4. Annual Caduceus Club Retreat attendance.

NOTE: ALTERATIONS OF THIS CONTRACT CANNOT BE MADE WITHOUT PRIOR WRITTEN APPROVAL FROM THE MEDICAL DIRECTOR AND/OR THE MPHC.

Medical Director, MPHP — Date

MPHC Chairman — Date

Executive Director, MSBML — 12-01-09 Date

Program Participant — 12 Oct 09 Date

cc: Program Participant
Executive Director, MSBML
Monitoring Physician
Primary Care Physician
Caduceus Club Facilitator

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

RICHARD CHARLES MENDEL, M.D.

RELINQUISHMENT OF MEDICAL LICENSE

WHEREAS, Richard Charles Mendel, M.D., hereinafter referred to as "Licensee," is the current holder of Medical License No. 21340 to practice medicine in the State of Mississippi; and

WHEREAS, there is now pending before the Board the matter of the referral of Licensee to the Examining Committee designated pursuant to the Mississippi Disabled Physician Law, codified as Miss. Code Ann. Sections 73-25-51 through 73-25-67; and

WHEREAS, Licensee disputes the referral to the Committee, but as a resolution of all matters now pending wishes to relinquish his right to practice;

NOW, THEREFORE, Licensee hereby voluntarily relinquishes his medical license (No. 21340) to practice medicine in the State of Mississippi. Licensee understands that this relinquishment is a public record and reportable to the National Practitioner Data Bank.

EXECUTED this the 21 day of January, 2013.

Richard Charles Mendel, M.D.

ACCEPTED AND APPROVED this the 22nd day of January, 2013 by the Mississippi State Board of Medical Licensure.

H. Vann Craig, M.D., Executive Director
Mississippi State Board of Medical Licensure

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	02/15/13	30 Miss. Admin Code Pt. 2630, R.1		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This rule has been rewritten to address issues regarding the collaboration of a physician with a nurse practitioner.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed:** _____
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	_X_ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	_X_ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_____ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
	FILED FEB 15 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	**Accepted for filing by**	**Accepted for filing by**

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

DELBERT HOSEMANN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	30 Miss. Admin Code Pt. 2630, R.1		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
   This regulation is to inform and educate physicians in collaborative relationships as to what the Board of Medical Licensure considers to be the responsibilities of such physicians.

2. Briefly describe the need for the proposed rule:
   The Board of Medical Licensure has determined that it is reasonable, necessary and in the public interest to adopt the regulations detailing what it considers to be the standard of practice.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:
   The rules intend to be practical and flexible enough to address a variety of situations and specialties. The Board does not intend to restrict patient access to essential healthcare in the State of Mississippi.

4. Estimated Cost of implementing proposed action:
   a. To the agency
      ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
   c. Cost:
      ☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive
   d. Economic Benefit:
      ☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive

6. Estimated impact on small businesses:
   ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

a. Estimate of the number of small businesses subject to the proposed regulation: The Board has determined that approximately 7% of the doctors collaborating with nurse practitioners could be affected and approximately 20% of the nurse practitioners could be affected.
b. Projected costs for small businesses to comply: Unknown
c. Statement of probable effect on impacted small businesses: The proposed actions require ownership by Mississippi licensed physicians.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
☐ substantially less than ☐ moderately less than ☐ minimally less than
☒ the same as ☐ minimally more than ☐ moderately more than
☐ substantially more than ☐ excessively more than
8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
☐ substantially less than ☐ moderately less than ☐ minimally less than
☐ the same as ☐ minimally more than ☐ moderately more than
☒ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form.
Approximations were derived from the Board's 2012 physician annual renewal information.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided? In writing to the following address:

Mississippi State Board of Medical Licensure
Attn: Vann Craig, M.D.
1867 Crane Ridge Drive Suite 200-B
Jackson MS 39216

SIGNATURE	TITLE
Rhonda Freeman	Bureau Director
DATE 2/15/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing

DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Agency is encouraged to use as much space as will adequately answer all questions. A PDF version of this executed Form must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	30 Miss. Admin Code Pt. 2630, R.1		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

1. Describe the need for the proposed action: The Board of Medical Licensure has determined that it is reasonable, necessary and in the public interest to adopt the regulations detailing what it considers to be the standard of practice.

2. Describe the benefits which will likely accrue as the result of the proposed action: This rule is to inform and educate physicians in collaborative relationships as to what the Board of Medical Licensure considers to be the responsibilities of such physicians.

3. Describe the effect the proposed action will have on the public health, safety, and welfare: The rules intend to be practical and flexible enough to address a variety of situations and specialties. The Board does not intend to restrict patient access to essential healthcare in the state of Mississippi.

4. Estimate the cost to the agency and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues: A minimal cost to the agency and no cost to other state or local government entities.

5. Estimate the cost or economic benefit to all persons directly affected by the proposed action: A minimum to moderate cost to persons affected. Based on review of Board statistical information indicating the current number of physicians who collaborate with nurse practitioners over 40 miles away, approximately 7% of collaborating physicians and 20% of nurse practitioners affected by the proposed rule of setting the mileage limit to 40 miles. Approximately 30% of physicians who indicate they collaborate with 5 or more nurse practitioners affected by the rule limiting the number of nurse practitioners to 4. Any resulting costs to the affected practitioners, both physicians and nurse

practitioners, would involve the cost to their practice of discontinuing collaboration where such collaboration violates either the 40 mile limit or the limit on the number of collaborative relationships.

6. Provide an analysis of the impact of the proposed rule on small business: A very minimal impact on small business.
    a. Identify and estimate the number of small businesses subject to the proposed regulation: See #5 above.
    b. Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record: No changes to cost of complying with record keeping is anticipated.
    c. State the probable effect on impacted small businesses: The proposed actions require ownership by Mississippi licensed physicians.
    d. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis:
        i. The establishment of less stringent compliance or reporting requirements for small businesses; No less intrusive or less costly methods are available.
        ii. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses; No less intrusive or less costly methods are available.
        iii. The consolidation or simplification of compliance or reporting requirements for small businesses; No less intrusive or less costly methods are available.
        iv. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; no less intrusive or less costly methods are available.
        v. The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations: N/A

7. Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule: See #5 above.
8. Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law: See #6 above.
9. Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency: See #6 above.
10. State reasons for rejecting alternative methods that were described in #9 above: No alternative methods available.

Approximations were derived from the Board's 2012 physician annual renewal information.

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 02/15/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing.

Title 30: Professions and Occupations

Part 2630 Collaboration/Consultation

Part 2630 Chapter 1: Collaboration/Consultation with Nurse Practitioners

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

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

Rule 1.2 Definitions. For the purpose of Part 2630, Chapter 1 only, the following terms have the meanings indicated:

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

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

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

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

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

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

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

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

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

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

In order that patients may continue to be treated without interruption of care, the APRN may be allowed to continue to practice for a 90-day grace period while the APRN attempts to secure a collaborative physician without such practice being considered the practice of medicine. The Mississippi State Board of Medical Licensure or its designee, will serve as the APRN's

collaborative physician with the agreement of the Mississippi Board of Nursing. The Mississippi State Board of Medical Licensure and the Mississippi State Board of Nursing will assist the APRN in their attempt to secure a collaborative physician. If a collaborative physician has not been secured at the end of the 90-day grace period, an additional 90-day extension may be granted by mutual agreement of the Executive Committee of the Mississippi Board of Nursing and the Executive Committee of the Mississippi State Board of Medical Licensure. During this additional 90-day extension, the above described collaborative agreement will continue. The APRN will not be allowed to practice until the previously described collaborative arrangement with the Mississippi State Board of Medical Licensure is agreed upon.

Rule 1.4 Violation of Rules. Any violation of the rules as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 1.5 Effective Date of Regulation. The above rules pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

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

Title 30: Professions and Occupations

Part 2630 Collaboration/~~Consultation~~

Part 2630 Chapter 1: Collaboration/~~Consultation~~ with Nurse Practitioners

Rule 1.1 Scope. ~~These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.~~ These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi. Because discipline may be imposed for failure to meet the standard of practice in connection with collaborative agreement with any advanced practice registered nurse (APRN), the Board of Medical Licensure has determined that it is reasonable, necessary and in the public interest to adopt the following rules detailing what it considers to be the standard of practice. These rules are to inform and educate physicians in collaborative relationships as to what the Board of Medical Licensure considers to be the responsibilities of such physicians. These rules intend to be practical and flexible enough to address a variety of situations and specialties. The Board of Medical Licensure does not intend to restrict patient access to essential healthcare in the state of Mississippi.

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

Rule 1.2 Definitions. For the purpose of Part 2630, Chapter 1 only, the following terms have the meanings indicated:

A. "~~Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi who holds an unrestricted license or whose practice or prescriptive authority is not limited as a result of voluntary surrender or legal/regulatory order.~~ "Advanced Practice Registered Nurse (APRN)" is a person who is licensed or holds the privilege to practice under Miss. Code Ann. Section 73-15-5, and who is nationally certified as an advanced practice registered nurse or in a specialized nursing practice which includes certified nurse midwives (CNM), certified nurse anesthetists (CRNA), clinical nurse specialists (CNS) and certified nurse practitioners (CNP).

B. "~~Free Standing Clinic" means a clinic or other facility wherein patients are treated by a nurse practitioner, which is more than fifteen (15) miles away from the primary office of the collaborative/consultative physician. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics and volunteer clinics.~~ "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.

C. "~~Primary Office" means the usual practice location of a physician and being the same location reported by that physician to the Mississippi State Board of Medical Licensure and the United States Drug Enforcement Administration.~~ "Primary Collaborating Physician" means a physician who, pursuant to a duly executed protocol, has agreed to adhere to the responsibilities implied by the collaborative agreement with an APRN as outlined in 73-43-11. This responsibility includes, but is not limited to, adherence to the Quality Assurance Program set out in these rules.

D. "~~Collaborating/Consulting Physician" means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.~~ "Secondary Collaborating Physician" ("Back-up Physician") is a physician who, pursuant to a duly executed collaborative agreement, agrees to perform the duties of the primary collaborating physician, including adherence to these rules, when the primary collaborating physician is unavailable. The classification secondary physician may also be applied when the physician is collaborating with a nurse practitioner who is working 20 hours or less a week for a clinic but has a full-time primary physician in collaboration at another site. When the secondary collaborating physician is acting as the primary all of the following rules apply.

E. "~~Nurse Practitioner" means any person licensed to practice nursing in the state of Mississippi and certified by the Mississippi Board of Nursing to practice in an expanded role as a nurse practitioner.~~ "Collaborative Agreement" means a written agreement between a physician, either primary or secondary as defined above, and an APRN. The collaborative agreement must be individualized to the specific collaborative practice.

F. "Acute Care Facility" means a hospital facility in which patients with acute medical conditions (e.g. cardiac, pulmonary, stroke, etc.) are being cared for by APRNs.

G. "~~Advanced Practice Registered Nurse" includes all nurse practitioners, certified nurse midwives and certified registered nurse anesthetists.~~ "Board" means the Mississippi State Board of Medical Licensure.

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

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

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

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

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

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

~~A. Review by collaborative physician of a random sample of charts that represent 10% or 20 charts, whichever is less, of patients seen by the nurse practitioner every month. Charts should represent the variety of patient types seen by the nurse practitioner. Patients that the nurse practitioner and collaborating physician have consulted on during the month will count as one chart review.~~

~~B. The nurse practitioner shall maintain a log of charts reviewed which include the identifier for the patient's charts, reviewers' names, and dates of review.~~

~~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.~~

Rule 1.3 Requirements for Collaborating Physicians. Primary and secondary collaborating physicians must:

A. hold a current unrestricted license in the state of Mississippi and actively provide direct patient care at least eight (8) hours weekly;

B. notify the Board within seven (7) working days of entering into or termination of any collaborative agreement;

C. insure that the primary collaborative physician(s) name(s) is/are displayed for public view at the APRN's practice site; and

D. enter into a collaborative agreement with the APRN, which is written, signed and dated by both the APRN and physician, and which must:

1. remain in the practice site of the collaborating physician should there be a site visit by the Board;
2. define the scope of practice, including mutually agreed upon collaborative agreements and guidelines for the healthcare provided;
3. agree upon medication formulary to be used by APRN and physician in practice. The collaborative physician has the right to use the Mississippi Prescription Monitoring Program to review the APRN's controlled substance prescribing practices;
4. describe the individual and shared responsibilities of the APRN and physician;
5. be reviewed and updated annually by the physician and the APRN; and
6. set out a procedure for handling patient emergencies, unexpected outcomes or other urgent practice situations.

A physician shall not enter into a collaborative agreement with an APRN whose training and practice is not compatible with that of the physician (it is recognized and accepted practice that

surgeons, obstetricians and dentists have collaborative arrangements with CRNAs).

The collaborative agreement shall not include medications the physician does not use in his or her current practice and about which the physician is not knowledgeable and competent.

Before entering into a collaborative agreement, a physician should consider the following when determining the degree of autonomy the agreement provides:

A. the physician's personal knowledge and ability to provide the time to the collaborative agreement;
B. the type of practice;
C. the scope of practice of the APRN;
D. the educational training and experience of the APRN;
E. the geographic location of the physician's practice and the practice of the APRN and their ability to consult in a manner that assures patient safety; and
F. the technology available to the physician and APRN to allow effective communication and consultation.

Physicians are prohibited from entering into a collaborative agreement with an APRN whose practice location is greater than forty (40) miles from the physician's practice site, unless a waiver is expressly granted by the Board for that particular collaborative agreement. However, a collaborative physician (primary or secondary) must be within 40 miles from the actively practicing APRN. Collaborative agreements which have previously been granted as waivers at the time of adoption of these rules will continue to be exempt from this requirement.

Anytime a collaborating physician is working with an APRN who is working in and/or staffing an emergency room the collaborative physician (primary or secondary) must be physically present in the building or no more than five (5) minutes from the facility. An exception to this policy would be Board approved telemanagement arrangements.

Anytime a collaborating physician is working with an APRN who is working in and/or providing care in an acute care facility, there must be evidence reflected in the patient's chart that a collaborative physician has seen and examined the patient within twelve (12) hours of the APRN seeing the patient.

Physicians are prohibited from entering into primary collaborative agreements with more than four (4) APRN's at any one time unless a waiver is expressly granted by the Board for that particular collaborative agreement. However, a physician may be in collaboration as the secondary physician on four (4) additional collaborative agreements and no QA, as defined under Rule 1.4, will be required for these additional APRNs. A secondary physician status may be given to a physician who is collaborating with up to two (2) APRNs who are working less than 20 hours per week at another clinic not in the same practice as the APRN's primary place of work. A QA review will be required quarterly. Collaborative agreements which have previously been granted such waivers at the time of adoption of these rules will continue to be exempt from this requirement.

The Board will consider the factors listed above, as well as any other factors that the Board

deems relevant, in determining whether to grant a waiver. Such waivers may be granted to medical practices with multiple physicians including, but not limited to, the following settings:

A. emergency rooms;
B. intensive care units;
C. Labor epidural services on Obstetrical Suites
D. State Department of Health;
E. State Department of Mental Health; and
F. federally funded health systems (e.g. FQHCs, VAMCs).

Physicians shall complete a questionnaire pertaining to APRNs upon initial licensure and during each annual renewal process.

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

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

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

Rule 1.4 Quality Assurance Program. Physicians entering into collaborative agreements shall implement a quality assurance program which shall include:

A. Review by the primary collaborating physician of a random sample of charts that represent 10% or 20 charts, whichever is less, of patients seen by the APRN every month. Charts should represent the variety of patient types seen by the nurse practitioner. Each patient encounter that the nurse practitioner and collaborating physician have consulted on during the month will count as one chart review.
B. Review of the controlled medications prescribed by the APRN revealed in the chart review. The physician may also make review through the Board of Pharmacy

Prescription Monitoring Program.

C. The primary collaborating physician shall meet face to face with the APRN once per quarter for the purpose of quality assurance and this meeting should be documented.
D. Secondary physicians for APRNs who work less than 20 hours per week at a clinic shall meet face to face with the APRN once per quarter for the purpose of quality assurance and this meeting should be documented.
E. The collaborating physician must insure that the APRN maintains a log of charts reviewed, including:
   1. the identifier for the patients' charts;
   2. reviewers' names; and
   3. dates of review.

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

Rule 1.5 Disability of Primary Collaborating Physician. In the event of death, disability (physical/mental) or unanticipated relocation of a primary collaborating physician, the secondary collaborating physician shall act as the primary collaborating physician. In the event the APRN has no secondary collaborating physician, the APRN must notify the Mississippi Board of Nursing, which will then immediately notify the Board. In such cases, the APRN may continue to practice for a 90-day grace period while the APRN attempts to secure a primary collaborating physician without such practice being considered the practice of medicine. The Board or its designee, will serve as the APRN's primary collaborating physician with the approval of the Mississippi Board of Nursing. The Board and the Mississippi State Board of Nursing will assist the APRN in their attempt to secure a primary collaborating physician. If a primary collaborating 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 Board of Nursing and the Executive Committee of the Board. 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 Board is agreed upon. The Quality Assurance process that was in place will be continued by the Board of Medical Licensure during the extension.

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

Rule 1.46 Violation of Rules. Any violation of the rules as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 1.~~5~~7 Effective Date of Regulation. The above rules pertaining to collaborating~~/consulting~~ physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

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

MINUTES

OF

TELEPHONIC CONFERENCE CALL

JANUARY 31, 2013

TELEPHONIC CONFERENCE CALL
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JANUARY 31, 2013

Those present on the conference call:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
H. Vann Craig, M.D., Executive Director
Scott Hambleton, M.D., Medical Director, Mississippi Professionals Health Program
Jonathan Dalton, Board Investigator
Leslie Ross, Investigations Supervisor
Sherry H. Pilgrim, Staff Officer

The telephonic conference call began at 4:15 p.m., on Thursday, January 31, 2013. After verifying that all parties were on the call, Dr. Craig explained the need for the conference call.

Dr. Craig discussed an issue with Mathew Cary Wallack, M.D., and the fact that the Examining Committee's evaluation stated he was not fit to practice medicine. Dr. Wallack went to Shands at The University of Florida and left prior to the completion of his evaluation. It was also pointed out that he chose a treatment center other than the ones provided him by the Examining Committee. Dr. Craig requested approval for the Board to issue an Order of Temporary Suspension based on recommendations from the Examining Committee that Dr. Wallack's continued practice would constitute immediate danger to the public. Dr. Wallack will be provided a hearing at the March Board meeting.

Motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously of the Executive Committee's approval to issue the Order of Temporary Suspension pursuant to Miss Code Ann. Section 73-25-63. A copy of the Order of Temporary Suspension is attached hereto and incorporated by reference.

Dr. Craig discussed Michael Zaleski, D. P.M., and the diagnosis and recommendation from Palmetto after being referred by the Examining Committee. Dr. Craig briefly discussed a telephone call with Dr. Larry Tamburino, a member of the Podiatric Advisory Committee, and explained the problems the Board has with Dr. Zaleski not willing to abide with the recommendations of the Examining Committee. Dr. Zaleski will be allowed a hearing at the March Board meeting.

Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously of the Executive Committee's approval to issue the Order of Temporary Suspension. A copy of the Order of Temporary Suspension is attached hereto and incorporated by reference.

ADJOURNMENT

There being no further business, the telephonic conference call adjourned at 4:28 p.m.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
January 31, 2013

MARCH 2013

MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 20, 2013

MEMBERS PRESENT:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, 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
Jonathan Dalton, Investigator, Investigative Division
Tamika Curley, Investigator, Investigative Division
Charles Ware, Investigator, Investigative Division
Ruby Litton, RN, Compliance Officer
Sherry H. Pilgrim, Staff Officer

OTHER BOARD MEMBERS PRESENT:

Claude D. Brunson, M.D.
Charles D. Miles, M.D.

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, March 20, 2013, at 2:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

HEARING IN THE CASE OF SANTANU SOM, D.O., NATCHEZ

Mr. Ingram, Complaint Counsel for the Board, introduced Joel Howell, attorney for Dr. Som and advised that he was here today to request a continuance because co-counsel has not obtained all the needed records from his previous law firm. Also, Mr. Howell advised that they will continue to reach a negotiated solution to obviate the necessity of a hearing.

Following a brief discussion concerning availability at the upcoming meeting, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to continue the matter until the next available scheduled meeting date. A copy of the Order of Continuance is attached hereto and incorporated by reference.

HEARING IN THE CASE OF MATHEW CARY WALLACK, M.D., BILOXI, MISSISSIPPI MEDICAL LICENSE NUMBER 18379, ORDER OF TEMPORARY SUSPENSION

Mr. Ingram addressed the Executive Committee and advised that Mr. Howell is also the attorney representing Dr. Wallack. Mr. Howell addressed the Executive Committee and requested the Executive Committee grant a continuance in the matter.

Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to grant the continuance until the next available scheduled meeting date. A copy of the Order of Continuance is attached hereto and incorporated by reference.

DISCUSS LEAH SMITH, M.D., JACKSON, APPLICANT, WAIVER

Dr. Craig briefly discussed Dr. Smith's request for a waiver in completing all steps of the USMLE advising it took her 7 years and 6 months to complete. Dr. Craig advised that Dr. Smith had advised that she had some financial difficulties during her residency and was unable to complete the 7 year requirement timely.

Motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that sufficient documentation was presented that provides extenuating circumstances for a waiver to be granted.

DISCUSS STEPHEN SUGGS, M.D., WESTLAKE VILLAGE, CA, APPLICANT

Dr. Craig reminded the Executive Committee that this matter was discussed at the January Executive Committee meeting and discussed Dr. Suggs' response. Dr. Craig advised that Dr. Suggs had completed his application in July 2012, but has not appeared before the Board to take his jurisprudence examination and background check. Dr. Craig advised that Dr. Suggs' file exceeds the 1 year rule and technically has been declared null and void.

Following a brief discussion of Dr. Suggs' application, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to provide Dr. Suggs with 2 dates to appear to take the jurisprudence examination and background check. Dr. Suggs

should be advised that if he fails to appear that his application will be considered null and void.

WILLIAM FRANKLIN YOST, M.D., SLIDELL, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 14913, SURRENDER

For informational purposes only, Dr. Craig briefly discussed the Surrender of Medical License concerning Dr. Yost. A copy of the Surrender is attached hereto and incorporated by reference.

APPROVAL OF RECOMMENDATION FROM EXAMINING COMMITTEE'S FINAL REPORT PER 73-25-55

Dr. Craig briefly discussed the letter from Dr. Polles and the Examining Committee concerning their recommendation of a licensed physician.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously to accept the Examining Committee's recommendations.

OTHER BUSINESS

Dr. Craig briefly discussed a letter that the Board had received from Courtney Smith, attorney with Sims & Sims in Columbus, MS. After a brief discussion, Ms. O'Neal advised that she would send a response to Mr. Smith's request.

Also, Dr. Craig briefly discussed a request from Teresa Williams, M.D., at Singing River Health System to approve Tara Johnson, PA-C to be approved to practice at the Pascagoula Wal-Mart Clinic. Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried unanimously to invite Dr. Williamson and PA Johnson to the May Executive Committee meeting to discuss their request.

REVIEW OF MARCH 21, 2013, BOARD AGENDA

Dr. Easterling briefly discussed the Board's agenda for Thursday's meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 2:25 p.m.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
March 20, 2013

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

SANTANU SOM, D.O.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on March 21, 2013, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Santanu Som, D.O., (hereinafter "Licensee"). 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 the next available scheduled meeting of the Board. Licensee shall be notified as soon as that date is established.

SO ORDERED, this the 21st day of March, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MATHEW CARY WALLACK, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on March 21, 2013, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Mathew Cary Wallack, M.D., (hereinafter "Licensee"). 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 the next available scheduled meeting of the Board. Licensee shall be notified as soon as that date is established. All terms and conditions of the Order of Temporary Suspension dated February 1, 2013, shall remain in full force and effect until further action by the Board.

SO ORDERED, this the 21st day of March, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

WILLIAM FRANKLIN YOST, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, WILLIAM FRANKLIN YOST, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 14913, issued on July 15, 1996, to practice medicine in the State of Mississippi;

WHEREAS, on November 19, 2012, Licensee entered into a Stipulation and Agreement with the Louisiana State Board of Medical Examiners. In accordance with said Agreement, Licensee voluntarily surrendered his Louisiana medical license (Certificate No. MD.11730R) while under investigation by the Louisiana State Board of Medical Examiners for engaging in a "pattern of practice that violated the Board's Pain Management Rules," pursuant to La. Rev. Stat. 37:1285A(6), (13) and (30);

WHEREAS, such conduct is in violation of the Mississippi Medical Practice Act, specifically Mississippi Code Ann., Section 73-25-29(8)(d), (10) and (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 14913) 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 13th day of February, 2013.

William Franklin Yost MD

WILLIAM FRANKLIN YOST, M.D.

ACCEPTED AND APPROVED this the 14th day of February 2013, by the Mississippi State Board of Medical Licensure.

H. Vann Craig

H. VANN CRAIG, M.D.
Executive Director
Mississippi State Board of
Medical Licensure

ORAL HEARING

MARCH 20, 2013

Collaborative / Consultation with Nurse Practitioners

Title 30, Part 2630, Chapter 1

MINUTES OF ORAL HEARING
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 20, 2013

MEMBERS PRESENT:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William S. Mayo, D.O., Oxford
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
Mickey Boyette, Investigator, Investigative Division
Jonathan Dalton, Investigator, Investigative Division
Ruby Litton, RN, Compliance Nurse
Sherry H. Pilgrim, Staff Officer

The Board of the Mississippi State Board of Medical Licensure met on Wednesday, March 20, 2013, at 3:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

Dr. Easterling called the Oral Hearing to order and welcomed the guests. Dr. Easterling advised the format of the hearing and that each individual would be allowed the opportunity to address the Board. Dr. Easterling advised that the Board would listen to all comments and suggestions.

Dr. Easterling stated that, "We are here today to conduct the 2nd oral hearing with regard to the adoption by the Mississippi State Board of Medical Licensure of its **proposed amendments to Mississippi Administrative Code, Title 30, Part 2630, Chapter 1: Collaborative/Consultation with Nurse Practitioners**. This rule has been rewritten to address issues regarding the collaboration of a physician with a nurse practitioner. The Notice of Proposed Rule Adoption was filed with the Secretary of State pursuant to the Administrative Procedures Act on February 15, 2013. These regulations are being adopted pursuant to the statutory authority found in Mississippi

Code Title 73. The purposes of these regulations are to protect the public, to set professional standards, and to enforce the provisions of law regulating the practice of medicine in the State of Mississippi.

Each person has been provided with guidelines for the conduct of oral proceedings before the MSBML. Persons who have indicated a desire to make a presentation during this proceeding may present oral statements and/or any documentary submissions relevant to their position. The Board requests that each participant making an oral statement identify themselves and any other individuals or entities they may represent at the beginning of their presentation and give a brief statement of their position with regard to the proposed regulation. The Board requests that each individual requesting to comment during the oral proceeding, to please restrict your statements and/or comments to five (5) minutes."

Before beginning the hearing, Dr. Easterling asked if there were any questions concerning the hearing. Dr. Easterling asked that each individual wishing to make comments come to a table facing the Board members and state their name before providing their comments.

1) Melinda Rush, DSN, FNP - Executive Director of the Board of Nursing - advised that she has been working closely with Dr. Brunson and Dr. Easterling on revisions to the proposed regulation since the last oral hearing and supports the Board's efforts.
2) Stephen Montagnet - Attorney for MS Nurses Association - discussed each part of the Economic Impact Statement and stated why he feels it is invalid.
3) Richard Roberson - Attorney for Rush Health Systems - discussed how they feel the regulation restricts patient access to care and discussed his concerns with the Economic Impact Statement. Mr. Roberson also addressed concerns with the 5 minute rule in the ER's, the 12 hour rule for the collaborating physician, and the need for greater flexibility with allowing only 4 APRNs per physician.

DR. MAYO ARRIVED AT 3:15 P.M.

4) Cheryl Savell - Credentialing Coordinator at Neshoba County General Hospital - addressed their concerns with the physician coverage in the ER and stated that their APRNs work 12 hour shifts in the ER and asked how waivers would be requested.
5) Linda Watkins, NP, RN, FNP, BC - American Association of NP - MS representative - discussed concerns to patient care in emergency rooms and discussed the 4 to1 ratio.
6) Steven Farrell, M.D., Chief Medical Officer Forrest General Hospital - discussed the operational and financial impact the rule changes would cause and asked how waivers would be judged.
7) Jeff Ross, M.D., Director of Inpatient Services and Medical Staff Liaison at King's Daughters Medical Center - addressed the collaboration/consultation of APRNs in

inpatient services and concerns with the proposed ER changes.
8) Paul Gardner, CEO, George Regional Health System and York Regional Hospital - discussed concerns with the proposed 5 minutes or in the building section and the proposal of the physicians seeing the patient within 12 hours of admission.
9) Marlana Hedgepeth, FNP - discussed concerns with the Economic Impact Statement and proposed changes to written protocol procedures.
10) Tom Joiner, M.D., MSMA - spoke on behalf of MSMA and advised that they support the Board's proposed regulations and applauds the Board for their efforts.
11) Ann Rea, M.D., MSMA - supports Dr. Joiner and MSBML in their endeavor and feels 4 is an adequate number for a collaborative agreement.
12) Michelle Owens, M.D., MSMA - practices in Jackson and has been a collaborating physician throughout her career. Spoke of bridging gaps and how collaborative agreements work for strong relationships.
13) Sam Yelverton, medical student - MSMA - agrees with collaborative agreements and believes them to be a good idea. Discussed the difference in the educational training of a MD and an APRN.
14) Elizabeth Schimmel, medical student - MSMA - is a 4th year medical student at UMC and spoke of the importance of good collaborative relationships and supports the Board in their proposed regulation.
15) Emily Brandon - medical student - MSMA - is a 2nd year medical student at UMC and a recipient of the Rural Physician Scholarship Program and explained how it works. She also supports the medical Board in their efforts with the proposed regulation.
16) Summer Bailey - medical student - MSMA - is a 1st year medical student and a recipient of the Rural Physician Scholarship Program and plans to practice in rural Mississippi. She also stated her support to the Board in their efforts with the proposed regulation.
17) Gayle Harrell, NP-C, CWCN - President of MS Nurses Association - addressed concerns with free standing clinics and the impact the regulation could cause on the nursing profession. Ms. Harrell addressed her concerns with the 4 to 1 ratio.
18) Lora Lonidier, DNP, RN, ACNP-BC, FNP-BC, CCRN - addressed concerns with the ER practices and spoke of concerns with the 12 hour rule and APRNs working at the Jackson Pulmonary Associates.
19) Dave Ware, CRNA - MS Association of Nurse Anesthetists - addressed conflicts with the MS Nursing Practice Law and discussed how the reg would affect CRNAs. Also discussed the 4 to 1 ratio and how CRNAs currently work in collaborative agreements.
20) Cynthia Pearson, FNP - Corinth - Ms. Pearson owns her own clinic and stated that there are 5 APRNs working there collaborating with 3 physicians. Requesting of waiver was discussed.
21) Gena Vail - FNP - owns Vail Health Services and they have 3 clinics and trying to open a 4th in Tupelo. She explained how the 4 to 1 logistically does not work for their clinics and how they cover 7 days a week.

22) Ann Rea, M.D., - addressed the Board for the 2nd time for clarification. Dr. Rea showed a diagram of physicians and CRNAs and how they currently work their collaborative relationships.
23) Sue Morrison, FNP - works for Vail Health Services - stated that collaboration works but barriers don't and discussed the 4 full time / 2 part time APRNs with limited physicians.
24) Teresa Malone - MS Nurses Association - Executive Director - discussed concerns with the 4 to 1 full time and the 2 part time APRNs and how it applies to clinics and hospital settings. Ms. Malone also addressed concerns with the PMP program and the information being available to the collaborative physicians.
25) Betty Dickson - former Executive Director of MS Nurses Association - Discussed the time line of collaboration and the regulation changes during that time and the removal of the requirement for joint promulgation.

Dr. Easterling thanked everyone for their comments and for coming to today's oral hearing. Dr. Easterling stated that the comments will be taken seriously and that it is not the Board's intent to limit access to care, but wants to ensure public safety through good collaborative agreements. Dr. Easterling advised the 12 hour rule will be discussed and clarified further. Dr. Easterling advised that the game plan is to meet in the morning and hopefully take a final vote on the regulation at tomorrow's Board meeting.

There being no further comments, Dr. Easterling adjourned the oral hearing at 4:55 p.m.

A verbatim account of the oral hearing was recorded by Cathy White, Court Reporter.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
March 20, 2013

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 21, 2013

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, March 21, 2013, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
William S. Mayo, D.O., Oxford
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
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Comrnittee

Not present:

Philip T. Merideth, M.D., J.D., Jackson
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. Easterling, President. The invocation was given by Dr. Easterling and the pledge was led by Dr. Mayo. Dr. Easterling welcomed Cathy White, Court Reporter, and extended a welcome to all visitors present at the meeting.

Dr. Craig advised several members of the Employer Support of the Guard/Reserve (ESRG) were here today to make a presentation. Captain David Alexander, Mr. Jarrod

Matthews, and Ms. Iva Sanders from ESGR were introduced. Captain Alexander thanked the Board for the opportunity to be present today to present Thomas Washington with the Patriots Award and a lapel pin.

Also, Dr. Craig advised that there were several employees that are to be recognized for their service with the state. Thomas Washington was recognized for twenty years service and presented a certificate and a clock, and Chuck Ware and Shirley Thomas were both recognized for ten years service and presented a certificate and crystal jar. Dr. Craig advised that Edna Canada is a contract employee and not present today but advised that she has also completed ten years of contractual service with the Board.

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

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD JANUARY 01, 2013, THROUGH FEBRUARY 28, 2013

One hundred ninety-eight (198) licenses were certified to other entities for the period January 01, 2013, through February 28, 2013. Motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously to approve the certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD JANUARY 01, 2013, THROUGH FEBRUARY 28, 2013

Eighty-five (85) licensees were issued for the period January 01, 2013, through February 28, 2013. Motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED JANUARY 23, 2013, MINUTES OF THE BOARD MEETING DATED JANUARY 24, 2013, AND MINUTES OF TELEPHONIC CONFERENCE CALL DATED JANUARY 31, 2013

Minutes of the Executive Committee meeting dated January 23, 2013, Minutes of the Board meeting dated January 24, 2013, and Minutes of the Telephonic Conference call dated January 31, 2013, were reviewed. Dr. Miles moved for approval of the minutes as submitted. Dr. Mayo seconded the motion and it carried unanimously.

REPORT OF MARCH 20, 2013, EXECUTIVE COMMITTEE MEETING AND ORAL HEARING

Dr. Craig briefly covered a number of issues that were discussed by the Executive Committee on March 20, 2013. Information pertaining to the Executive Committee decisions is included in the Executive Committee minutes dated March 20, 2013.

Dr. Easterling 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. Brunson (Chair), Dr. Easterling, Dr. Jones, Dr. Chance, Dr. Miles, Mr. Burnham, Mr. Thomas

Dr. Brunson advised the Board held the second oral hearing on the regulations regarding the collaboration of a physician with a nurse practitioner yesterday. Dr. Brunson advised that the Committee reviewed the comments/suggestions from the oral hearing in a committee meeting this morning. Dr. Brunson covered the additional changes being made to the regulation. After a brief discussion among Board members, additional clarification, and several questions, Dr. Easterling advised that the Board intends on voting to final adopt the regulation later in the meeting.

Professionals Health Program - Dr. Chance (Chair), Dr. Crawford, Dr. Aycock

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

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

Dr. Mayo advised the committee met this morning and discussed the proposal of the regulation concerning preservation and certification of electronic records as well as proposed changes to the regulation pertaining to prescribing, administering and dispensing of medication, specially relative to pain management clinics. As a reminder, Dr. Mayo read the Board's Mission Statement and advised that the Board needs to remember our Mission while we serve as Board members.

Dr. Mayo advised that the committee moves that the proposed regulation concerning preservation and certification of electronic records be voted on and filed with

the Secretary of State. Dr. Brunson seconded the motion, and it carried unanimously. A copy of the proposed regulation is attached hereto and incorporated by reference. It is the Board's intent to file the regulation with the Secretary of State under the Administrative Procedures Act.

Dr. Mayo briefly discussed the recommended changes to the regulation concerning pain management clinics and stated that the committee moves that the proposed regulation changes be voted on and filed with the Secretary of State. Dr. Miles seconded the motion, and it carried unanimously. A copy of the proposed regulation is attached hereto and incorporated by reference. It is the Board's intent to file the proposed regulation changes with the Secretary of State under the Administrative Procedures Act.

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

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

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

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

Licensure Process - Dr. Brunson (Chair), Dr. Craig, Ms. Freeman

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

PERSONAL APPEARANCE BY JODI ALLEN PARKS, M.D., COVINGTON, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 20711, REQUEST FOR RESTRICTIONS TO BE LIFTED

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Parks and her attorney, Richard Cirilli, and advised that Dr. Parks is currently under a Board Order dated March 22, 2012, and that she was here today to request the lifting of the restrictions on her Mississippi medical license.

Mr. Cirilli addressed the Board and advised that Dr. Parks has completed and submitted documentation to the Board acknowledging that she has met all requirements of the 2012 Board Order and was requesting that the restrictions be lifted.

Dr. Parks addressed the Board and answered several questions from Board members and advised that she does not intend on applying for another DEA number as she does not need it in her practice.

Motion was made by Dr. Mayo, seconded by Dr. Chance, and carried unanimously to lift the current restrictions effective March 22, 2013, on Dr. Parks' Mississippi medical license. A copy of the order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY GABRIEL PEREZ LASALA, M.D., MANDEVILLE, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 13305, PROPOSED CONSENT ORDER

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Lasala and his attorney, Doug Mercier. Mr. Ingram advised that the Board had sent Dr. Lasala a proposed Consent Order due to the actions taken by the Louisiana Medical Board and that Dr. Lasala has signed the Consent Order and is here today to answer questions and request the Board's approval of said Order.

Mr. Mercier addressed the Board and thanked them for allowing them the opportunity to appear and reiterated that Dr. Lasala has signed and returned the Order for the Board's approval.

Dr. Lasala addressed the Board and responded to several questions concerning the circumstances surrounding Louisiana's Order. Dr. Lasala advised that he fully intends on complying with the restrictions placed on his Mississippi medical license.

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

DISCUSS REQUESTS CONCERNING REGULATION PERTAINING TO CME REQUIREMENTS

Following a brief discussion concerning the two year cycle, the hours required and questions concerning the requirement of physicians that do not have a DEA certificate and their requirement of the additional five hours, motion was made by Dr. Mayo, seconded by Dr. Miles and carried, to insert at the beginning of the second sentence of Rule 2.1 the following, "For every Mississippi licensee with an active DEA certificate." It was the consensus of the Board that inserting the statement would address the issues.

Motion was made by Dr. Mayo, seconded by Dr. Miles, and carried unanimously of the Board's intent to file the proposed changes to the regulation pertaining to CME requirements. A copy of the amended regulation is attached hereto and incorporated by reference. The proposed regulation will be filed with the Secretary of State under the Administrative Procedures Act.

THE BOARD RECESSED AT 09:50 A.M. AND RECONVENED AT 09:55 A.M.

HEARING IN THE CASE OF MICHAEL SEAN ZALESKI, D.P.M., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 80131

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Zaleski and his attorney, Doug Mercier. Mr. Ingram advised that Dr. Zaleski had been issued a Summons and Affidavit to appear today due to violations of the Medical Practice Act. Mr. Ingram briefly covered the Summons and Affidavit and highlighted the 8 counts that Dr. Zaleski had been charged with in the Affidavit. Mr. Ingram advised that Dr. Zaleski had been referred to the Examining Committee under the Mississippi Disabled Physician Law and advised their recommendations.

Mr. Mercier addressed the Board and made an opening statement and discussed the stress that Dr. Zaleski has been under running his own clinic as well as an offer to settle the matter with Dr. Zaleski agreeing to go to Palmetto.

Mr. Ingram redirected and stated that admitting to Palmetto does not correct the problems with Dr. Zaleski's initial licensure application or errors on his renewals.

Following a brief discussion, Dr. Zaleski was called to the witness stand and was sworn in by the court reporter. Dr. Zaleski responded to several questions from Board members before a motion was made by Dr. Crawford, seconded by Dr. Mayo, and carried that the Board enter into Executive Session to discuss a matter that could adversely affect Dr. Zaleski's Mississippi medical license.

Motion was made by Dr. Crawford, seconded by Dr. Mayo, and carried that the Board come out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock stated that the Board requires Dr. Zaleski to have a second evaluation at a Board approved facility. The evaluation will be submitted to MPHP for recommendation to be made to the MSBML, and further Dr. Zaleski shall follow all directives thereafter issued by the Board. Dr. Zaleski is not to practice medicine until appearing before the Board. In addition, the Board directs Dr. Zaleski to submit a corrected application and renewal form for the current licensure year. A copy of the Order is attached hereto and incorporated by reference.

Dr. Easterling asked Dr. Zaleski if he agreed with the Board's recommendations and if he doesn't, the Board will proceed with the hearing. Dr. Zaleski advised that he agreed with the Board's recommendations.

A verbatim account of this proceeding was recorded by Cathy White, Court Reporter.

OTHER BUSINESS - NOMINATING COMMITTEE

Dr. Easterling appointed a Nominating Committee to submit a slate of officers for the next year beginning in July. Dr. Easterling appointed Dr. Brunson as Chair with Dr. Mayo and Dr. Chance as members. The Committee will make their recommendations at the May Board meeting.

DISCUSS FINAL ADOPTION OF AMENDED CHANGES TO THE REGULATION CONCERNING COLLABORATION WITH NURSE PRACTITIONERS

Dr. Easterling discussed the additional changes with the CRNA's, changing the 5 minutes to 10 minutes where the physician must be in the building or no more than 10 minutes away, and addressing mental health facilities. Dr. Easterling advised that the 12 hour requirement for the collaborating physician to see the patient in an acute care facility remains unchanged.

Following discussion and several comments by Board members concerning the 12 hours, the 4 to 1 ratio, handling of waivers, and how electronic medical records would be considered automatic review, motion was made by Dr. Miles of the Board's intent to final adopt the regulation with the proposed changes, the motion was seconded by Dr. Mayo, and carried. A copy of the amended regulation with changes is attached hereto and incorporated by reference. The amended regulation will be filed with the Secretary of State's office under the Administrative Procedures Act.

ADJOURNNMENT

There being no further business, the meeting adjourned at 11:10 a.m., with the next meeting scheduled for Thursday, May 16, 2013.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
March 21, 2013

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	3/28/13	30 Miss. Admin Code Pt. 2645, Chapter 2		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Chapter 2 is being added to designate policies and practices for records management in the transition from paper-based to electronic record-keeping in order to facilitate use and admissibility of such records in Board proceedings.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed:** _____
_____ Renewal of effectiveness	__X__ New rule(s)	**Action taken:**
To be in effect in _____ days	_____ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	__X__ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_____ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
	FILED MAR 28 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	**Accepted for filing by**	**Accepted for filing by**

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

SOS APA Form 002
Rev. 6/12

DELBERT HOSEMANN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		601-987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	30 Miss. Admin Code Pt. 2645, Chapter 2		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
This rule will give guidance to Board staff and the public in regard to records management during the transition from paper to electronic record keeping.

2. Briefly describe the need for the proposed rule: The Board has implemented several systems which require the electronic saving of information. This rule is required in order to facilitate the use and admissibility of the electronic records during Board proceedings.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:
Electronic records provide an easier and quicker avenue for the transmission of records. Requesters of information can obtain it in minutes verses days or perhaps weeks.

4. Estimated Cost of implementing proposed action:
   a. To the agency
   ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
   ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
   c. Cost:
   ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   d. Economic Benefit:
   ☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive

6. Estimated impact on small businesses:
   ☒ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

a. Estimate of the number of small businesses subject to the proposed regulation: 1
b. Projected costs for small businesses to comply: N/A
c. Statement of probable effect on impacted small businesses: Eliminate the use of paper. Processing of requested information will be quicker.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☒ the same as ☐ minimally more than ☐ moderately more than
   ☐ substantially more than ☐ excessively more than
8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☒ the same as ☐ minimally more than ☐ moderately more than
   ☐ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
   ☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form. Review of current Board policy.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided? In writing to the following address:

Mississippi State Board of Medical Licensure
Attn: Vann Craig, M.D.
1867 Crane Ridge Drive Suite 200-B
Jackson MS 39216

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 3/28/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing

DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Agency is encouraged to use as much space as will adequately answer all questions. A PDF version of this executed Form must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	30 Miss. Admin Code Pt. 2645, Chapter 2		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

1. Describe the need for the proposed action: To designate policies and practices for records management in the transition from paper-based to electronic record-keeping in order to facilitate use and admissibility of such records in Board proceedings.

2. Describe the benefits which will likely accrue as the result of the proposed action: This will allow the use of electronic records during Board proceedings which will save time, expense and storage.

3. Describe the effect the proposed action will have on the public health, safety, and welfare: There should be no effect on public health, safety and welfare.

4. Estimate the cost to the agency and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues: A minimal cost to the agency and no cost to other state or local government entities.

5. Estimate the cost or economic benefit to all persons directly affected by the proposed action: The Board will save in the cost of printing, mailing and storage.

6. Provide an analysis of the impact of the proposed rule on small business: A very minimal impact on small business.
    a. Identify and estimate the number of small businesses subject to the proposed regulation: This rule will only affect the Board.
    b. Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary

for preparation of the report or record: All that is required is for employees to understand the working of the electronic records system. Cost should be very minimal.

c. State the probable effect on impacted small businesses: It will make the transmittal of requested records quicker and easier to process.
d. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis:
    i. The establishment of less stringent compliance or reporting requirements for small businesses;
    ii. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
    iii. The consolidation or simplification of compliance or reporting requirements for small businesses;
    iv. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
    v. The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations: N/A

7. Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule: The cost would be the same.
8. Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law: None
9. Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency: N/A
10. State reasons for rejecting alternative methods that were described in #9 above: N/A
11. Provide a detailed statement of the data and methodology used in making estimates required by this subsection: Review of current Board policy.

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 3/28/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing.

Title 30: Professions and Occupations

Part 2645 Rules of Procedure

Part 2645 Chapter 2: Preservation and Certification of Electronic Records

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

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

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

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

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

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

A. Micrographic media, including microfilm, microfiche, or any similar medium; or

B. Electronic storage media, including any digital storage.

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

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

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

Rule 2.6 Authenticating Electronic Evidence in Board Proceedings.

A. *Self-Authentication.* Evidence of authenticity is not required for admissibility in any hearing or other matter before the Board, provided the evidence is either (i) an original or (ii) an electronic reproduction of the original as maintained by the Board.

B. *Method to self-authenticate.* To be self-authenticating, the record must be accompanied by a written declaration of the designated custodian as provided herein, certifying that the electronic record (i) was made in the normal course and scope of Board business and (ii) by a person with knowledge of those matters. The proponent must show that the custodian of the records is not only familiar with the maintenance of the records, but also with how they are created.

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	4/08//13	Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 1.2 and 1.15 was modified to define physician owner/operators in pain management clinics and to include rules for those operating the clinic.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed:** _____
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	_X_ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	_X_ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_____ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
	FILED APR 0 8 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	**Accepted for filing by**	**Accepted for filing by**

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

DELBERT HOSEMANN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		601-987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit: The citizens of the state of Mississippi will be protected from clinic and practitioners that are operating in this state for profit only. The physicians will have rules and better guidelines that will assist them in their treatment of long term and chronic pain.

2. Briefly describe the need for the proposed rule: Mississippi has few regulations in the field of pain management medicine, it has opened the door for every physician, nurse practitioner and franchised medical clinic to be able to practice Pain management without expertise, treatment guidelines, oversight and/or ongoing training in the treatment of pain. This type of open door policy can invite scams, unethical medical practices, as well as, exploitation of patients who are desperate to manage their pain. The proposed rules will ensure that patients are not just receiving excessive amounts of controlled substance to treat pain or divert for personal illegal purposes.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare: Mississippi is currently at a risk for patient exploitation by unethical, untrained physicians, gimmicky quick fix solutions, and medical pain management franchised clinics offering shady pain management practices. Physicians/owner operators will have to adhere to significantly higher standards and regulations in order to elevate the management of the pain medicine profession and collectively give credence to medically accepted practices for managing and treating pain.

4. Estimated Cost of implementing proposed action:
   a. To the agency
      ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
   c. Cost:
      ☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive
   d. Economic Benefit:
      ☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive

6. Estimated impact on small businesses:
   ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

   a. Estimate of the number of small businesses subject to the proposed regulation: unknown
   b. Projected costs for small businesses to comply: unknown
   c. Statement of probable effect on impacted small businesses: The proposed actions require majority ownership by Mississippi licensed physicians.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☒ the same as ☐ minimally more than ☐ moderately more than
   ☐ substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☐ the same as ☐ minimally more than ☐ moderately more than
   ☒ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
   ☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form.
   The data utilized to address the proposed regulatory changes consist of the current records in possession of the Board, including applications and registrations for existing pain management clinics in the State of Mississippi. The methodology consisted of a comparative study of the existing applications with those entities which would now be exempt.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided? In writing to the following address:

   Mississippi State Board of Medical Licensure
   Attn: Vann Craig, M.D.
   1867 Crane Ridge Drive Suite 200-B
   Jackson MS 39216

SIGNATURE	TITLE
Rhonda Freeman	Bureau Director
DATE 4/08/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing

DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Agency is encouraged to use as much space as will adequately answer all questions. A PDF version of this executed Form must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	Part 2640 Chapter 1:Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		
Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:		
73-43-11	N/A		

1. **Describe the need for the proposed action**: Amendment to the existing regulations, Part 2640, Rule 1.2 and 1.15, is necessary to clarify the scope of ownership and operation of pain management clinics in the State of Mississippi, and thereby protecting the public.

2. **Describe the benefits which will likely accrue as the result of the proposed action**: To ensure that only physicians holding unrestricted licenses to practice medicine in the State of Mississippi are primarily responsible for the operation of pain management clinics and the prescription, dispensation and administration of narcotics and other controlled substances.

3. **Describe the effect the proposed action will have on public health safety and welfare**: By virtue of the regulation as amended, there will be greater physician oversight and accountability of narcotics and other controlled substances prescribed, dispensed or administered to patients for pain management. Enforcement of the regulation as amended will (1) ensure that narcotics and other controlled substances are only prescribed, dispensed and administered to those with legitimate medical need, (2) reduce the possibility of injury or death due to overdose, and (3) prevent diversion of narcotics and other controlled substances into the illicit market.

4. **Estimate the cost to the agency and to other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues**: The proposed regulation as amended merely strengthens the existing regulations. Therefore, there will be no additional costs, i.e. employment of additional investigators, etc, as a result of implementation of the proposed regulatory changes.

5. **Estimate the cost or economic benefit to all persons directly affected by the proposed action**: There are currently 43 active and registered Pain Management Clinics in the State of Mississippi. Except where owned and/or operated by a licensed hospital, majority ownership in each clinic must be held by a physician holding an unrestricted license in the State of Mississippi. The proposed amendments, therefore, will not have any greater economic impact than the regulation as currently enforced. The purpose of the regulation is to clarify that the physician owner/operator of the pain clinic must register rather than the clinic itself.

6. **Provide an analysis of the impact of the proposed rule on small business**:

   a. **Identify and estimate the number of small businesses subject to the proposed regulation**:

      It is estimated that there are 43 active and registered Pain Management Clinics currently operating in the State of Mississippi. Most, if not all, would be deemed small businesses.

   b. **Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record:**

      The Mississippi State Board of Medical Licensure currently employs one individual whose part time responsibility is to maintain records regarding the registration and renewal of pain management clinics by physician owner/operators. The proposed amendments place no greater responsibility on this particular staff member than already exists. Therefore, no additional costs are being incurred.

   c. **State the probable effect on impacted small businesses**:

      Because the proposed regulatory changes will not impose any greater burden on the physician owner/operator of Pain Management Clinics, it is anticipated there will be no economic impact on existing clinics (small businesses).

   d. **Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis:**

i. **The establishment of less stringent compliance or reporting requirements for small businesses;**

No less intrusive or less costly methods are available

ii. **The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;**

No less stringent schedules/deadlines or reporting requirements are available

iii. **The consolidation or simplification of compliance or reporting requirements for small businesses;**

No consolidation, simplification of compliance or reporting requirement are available

iv. **The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation;** and

No less intrusive or less costly methods are available

v. **The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations**:

The regulations as amended exempt clinics which prescribe controlled substances to treat pain as a result of terminal illness. Further, other entities, some of which would be deemed small businesses, which are exempt from the regulations as amended, include hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services and outpatient surgical clinics.

7. **Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule**: By adopting the proposed amendments to Rule 1.2 and 1.15 for pain management clinics, thereby exempting from the registration requirements there from, licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, outpatient surgical clinics and physician/clinic practices which treat pain as a result of terminal illness, such entities will no longer have to register thus reducing probable costs and benefits.

8. **Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law**: There are no less costly methods or less intrusive methods to address.

9. **Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency**: No reasonable alternative methods were available or considered.

10. **State reasons for rejecting alternative methods that were described in #9 above**: Not applicable.

11. **Provide a detailed statement of the data and methodology used in making estimates required by this subsection**: The data utilized to address the proposed regulatory changes consist of the current records in possession of the Board, including applications and registrations for existing pain management clinics in the State of Mississippi. The methodology consisted of a comparative study of the existing applications with those entities which would now be exempt.

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 04/08/2013	PROPOSED EFFECTIVE DATE OF RULE 30 Days from final file

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.
G. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within

Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter

packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts
A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.

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

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

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

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

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

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

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

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

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

As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, order, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of

weight reduction based on caloric restriction, provided the physician complies with the following and that all of the following conditions are met:

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of ≥ 30.0 in a normal otherwise healthy patient, or a BMI ≥ 27.0 in an individual with at least one associated co-morbidity, or current body weight ≥ 120 percent of a well documented, long standing healthy weight that the patient maintained after the age of 18, or body fat $\geq 30\%$ in females, or body fat $\geq 25\%$ in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.

D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.

E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation

once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.

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

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-

approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

F. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other

drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or

continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.

F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

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

   It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.
2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will

be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.

3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances

prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

   Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

G. A prescription shall no longer be valid after the occurrence of any one of the following events:
   1. Thirty (30) days after the death of the issuing physician.
   2. Thirty (30) days after the issuing physician has moved or otherwise changed the location of his or her practice so as to terminate the doctor/patient relationship. Termination of the doctor/patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing physician.

3. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
4. Immediately after revocation, suspension or surrender of the physician's license.

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

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

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

Rule 1.14 Security of Controlled Substances. In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are

maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Clinics.

A. Definitions. For the purpose of Part 2640, Rule 1.14 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Clinic" is defined as a public or privately owned facility that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) that treat pain as a result of terminal illness.

B. The physician owner/operator of the pain management clinic must possess and maintain a majority ownership (more than 50%) of the pain management clinic and shall register the clinic with the Board. A hospital owned pain management clinic is exempt from the majority ownership requirement; however, the hospital must employ a physician or medical director who meets the requirements set forth below. 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.

C. Application for Initial Registration and Renewal. The physician owner/operator of the pain clinic must:

1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
4. report any changes of information provided in the application for registration or renewal within 30 days.

D. Physician owner/operator may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

E. Physician owner/operator 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 that is not designated as limited retired, temporary, or in-training;
3. is on site in the clinic at all times when patients are being seen; and
4. holds a certificate of registration for that pain management clinic.

F. In addition, the physician owner/operator of a pain management clinic, an employee of the clinic or a person with whom the physician owner/operator of a clinic contracts for services may not:
1. have been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
2. have held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted; ~~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; or
4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. A physician owner/operator shall not employ 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 offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Clinics. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management clinics registered by the Board must meet one (1) of the following qualifications:

1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, or psychiatry and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management. Upon completion of the 100 hours of CME, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain clinic must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on each patient visit from the MPMP for every patient receiving controlled substances in a registered pain management clinic.

J. Requirements for Physician Assistants Practicing in Pain Management Clinics. Physician assistants must meet the following qualifications prior to practicing in a registered pain management clinic:

1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
2. Physician assistants with approved prescriptive authority must obtain 25 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain clinic;
3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain clinic. Notwithstanding, this does not prohibit a MPHP participant from working in a pain clinic.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner/operator must reapply for an original certificate. The physician owner/operator of the clinic shall post the certificate in a conspicuous location so as to be clearly visible to patients. The clinic may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practic. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.

B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.

D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.

F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.

~~G. "Pain Management Clinic" means a public or privately owned facility for which the majority (50% or more) of the patients are issued, on a monthly basis, a prescription for opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol.~~

H. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts

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

The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these rules shall be maintained in the office of the physician for a period of seven (7) years from the date that the record is completed or the controlled substances, legend drugs or other medications are prescribed, administered or dispensed and shall be made available for inspection by representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.

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

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

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

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

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

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

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

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

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of $\geq$ 30.0 in a normal otherwise healthy patient, or a BMI $\geq$ 27.0 in an individual with at least one associated co-morbidity, or current body weight $\geq$ 120 percent of a well documented, long standing healthy weight that the patient maintained after the age of 18, or body fat $\geq$ 30% in females, or body fat $\geq$ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.
D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.
E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.
F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.
G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

G. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being

overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to

increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than

one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.

B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:
    1. The prescription order shall contain the date, time, telephone number and location of the transmitting device. Prescription blanks utilized in this manner shall bear a pre-printed heading that indicates the blank is a "Fax Prescription Form." Fax prescription orders must contain a manual or authenticated electronic/digital signature of the prescriber. As to Schedule II drugs, only Schedule II narcotic substances that are to be prepared or compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intra spinal infusion may be transmitted by the physician or the physician's agent to a pharmacy of the patient's choice by facsimile. All original hardcopy faxed prescriptions shall immediately be voided after successfully completing the fax transmission by writing across the face of the prescription from corner to corner the notation "faxed." The original prescription (or copy) shall be retained in the physician's patient file with additional information included on the back of the prescription as to the date it was faxed, the name or initials of the person faxing the prescription and the name/location of the pharmacy receiving the fax transmission.

       It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is

established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.

2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and

telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.

C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

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

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

Rule 1.13 Other Drugs Having Addiction-forming Liability. All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Part 2640, Rule 1.4 when administering or dispensing the drug Nalbuphine Hydrochloride (Nubain) or its generic equivalent. The inventory and dispensation/administration records for

said drug may be maintained separately or included as a part of the physician's controlled substance records.

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

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

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Clinics.

A. Definitions. For the purpose of Part 2640, Rule 1.14 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Clinic" is defined as a public or privately owned facility that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) that treat pain as a result of terminal illness.

B. The physician owner/operator of the pain management clinic ~~shall register with MSBML~~must possess and maintain a majority ownership (more than 50%) of the pain management clinic and shall register the clinic with the Board. A hospital owned pain

management clinic is exempt from the majority ownership requirement; however, the hospital must employ a physician or medical director who meets the requirements set forth below. ~~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.

C. Application for Initial Registration and Renewal. The physician owner/operator of the pain clinic must:
   1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
   2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
   3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
   4. report any changes of information provided in the application for registration or renewal within 30 days.

D. ~~A pain management clinic~~ Physician owner/operator may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

E. ~~A pain management clinic~~ Physician owner/operator 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 that is not designated as limited retired, temporary, or in-training;
   3. is on site in the clinic at all times when patients are being seen; and
   4. holds a certificate of registration for that pain management clinic.

F. In addition, the physician owner/operator of a pain management clinic, an employee of the clinic or a person with whom the physician owner/operator of a clinic contracts for services may not:
   1. have been denied, by any jurisdiction, a ~~license~~certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
   2. have held a ~~license~~certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted; ~~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~~.~~; or
   4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. A ~~pain management clinic may not be owned wholly or partly by~~physician owner/operator shall not employ 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 offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Clinics. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management clinics registered by the Board must meet one (1) of the following qualifications:
   1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
   2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
   3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
   4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, or psychiatry and approved by the ACGME or the AOA; or
   5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management. Upon completion of the 100 hours of CME, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain clinic must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on each patient visit from the MPMP for every patient receiving controlled substances in a registered pain management clinic.

J. Requirements for Physician Assistants Practicing in Pain Management Clinics. Physician assistants must meet the following qualifications prior to practicing in a registered pain management clinic:
   1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
   2. Physician assistants with approved prescriptive authority must obtain 25 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain clinic;
   3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and

4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain clinic. Notwithstanding, this does not prohibit a MPHP participant from working in a pain clinic.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner/operator must reapply for an original certificate. The physician owner/operator of the clinic shall post the certificate in a conspicuous location so as to be clearly visible to patients. The clinic may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practice ~~clinic~~. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

JODI ALLEN PARKS, M.D.

ORDER REMOVING ALL RESTRICTIONS

THIS MATTER came on regularly for consideration on March 21, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Jodi Allen Parks, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on her Mississippi medical license by virtue of that certain Consent Order dated March 22, 2012. 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 effective March 22, 2013.

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 Jodi Allen Parks, M.D.

ORDERED, this the 21st day of March 2013.

Mississippi State Board of Medical Licensure

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

GABRIEL PEREZ LASALA, M.D.

CONSENT ORDER

WHEREAS, GABRIEL PEREZ LASALA, M.D., hereinafter referred to as "Licensee" is the current holder of License No. 13305, issued August 14, 1992, for the practice of medicine in the State of Mississippi;

WHEREAS, The Director of Investigation ("DOI") of the Louisiana State Board of Medical Examiners initiated an investigation of Licensee, a physician licensed in the state of Louisiana pursuant to Certificate Number 10402R, in 2011. The investigation revealed that Licensee received FDA approval to conduct clinical trials of experimental stem cell therapies pursuant to FDA-approval protocols, but that Licensee administered those experimental therapies to patients outside of the trials and/or who did not meet the trial parameters. Upon discovering Licensee's actions, the FDA conducted its own investigation and issued a warning letter outlining several violations, including that Licensee; (1) failed to conduct clinical investigations in accordance with approved protocols and monitor the progress of the ongoing investigations; (2) initiated clinical investigations without protocol in effect; (3) initiated clinical investigations without submitting a protocol amendment or a new application to the FDA; (4) administered investigational products in violation of a clinical hold; (5) failed to test specimens from donors for communicable disease; (6) treated patients (one as young as 24 months of age) under the age of eighteen and, therefore, outside of the trial protocols; (7) used allogenic (non-autologous) stem cells when no such use was authorized. The DOI's investigation confirmed to her satisfaction that there was

evidence to support these allegations and also uncovered other violations of the Louisiana Medical Practice Act, including, but not limited to, Licensee's promotion, through promotional materials available on his website, of stem cell therapies in the absence of scientific proof of the efficacy of those procedures;

WHEREAS, by virtue of the above investigation and findings, on May 21, 2012, the Louisiana State Board of Medical Examiners, placed Licensee's Louisiana certificate to practice medicine on probation for a period of five (5) years, subject to strict compliance with eleven (11) enumerated terms, conditions and restrictions. A copy of The Louisiana State Board of Medical Examiner's Consent Order placing Licensee on probation for five (5) years is attached as "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 Consent Order 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;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby place on **PROBATION** for a period of five (5) years from the effective date this Order, Licensee's Medical License (Certificate No. 13305) to practice medicine in the State of Mississippi, subject to the following probationary terms and conditions, to wit:

(1) Licensee shall comply with all terms and conditions imposed on his license by the Louisiana State Board of Medical Examiners.

(2) Licensee shall relinquish any professional affiliation he may have with any stem cell lab, and shall have no professional affiliation with any stem cell lab in the future, provided however, that Licensee may continue to retain his ownership interest in TCA Cellular Therapy, LLC until he is reasonably able to divest himself of his ownership interest, which divestment in any event must occur within two years of the effective date of this Consent Order, and further provided that, prior to said divestment, (1) TCA Cellular Therapy, LLC will not engage in the evaluation or treatment of any patient or (2) otherwise actively engage in the purchase, sale or distribution of stem cells to third parties.

(3) Licensee shall not offer or promote any non FDA-approved stem cell therapy, and he shall not profit from any referral for any such therapy. For the duration of his medical career, Licensee shall not hold himself out as a researcher or expert in the field of stem cell treatments or (2) lecture regarding stem cell treatments or present any such data in the scientific arena.

(4) Within the first year from the acceptance of this order by the Board, Licensee shall enroll and successfully complete a course of study, acceptable to and pre-approved in writing by the Board, in the area of professionalism and medical ethics.

(5) Licensee shall obtain not less than fifty (50) credit hours per year for each of the five (5) years of his probationary period through attendance at and participation in continuing medical education (CME) programs accredited by the American Medical Association. Following completion of each course, Licensee shall submit to the Board documented proof of successful completion. This is in addition to the forty (40) hours of Category 1 CME requirements as cited in Title 30, Part 2610, Chapter 2 of the Board's Rules and Regulations.

(6) In the event Licensee, a current resident of Louisiana, 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 is in a clinic or hospital setting.

(7) Licensee 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.

(8) By his subscription hereto, Licensee acknowledges that his receipt of written notification that the Board has received apparently reliable information which indicates his failure to comply wit 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 Mississippi Medical Practice Act and specifically, Subsection (9) of the Miss. Code Ann. Section 73-25-29, or which otherwise may be afforded to him by law, constitutes his irrevocable consent to the immediate suspension of his license to practice as a physician.

Licensee shall have the right, but not the obligation, to petition the Board at such time as he has successfully completed all terms and conditions as required by the Louisiana State Board of Medical Examiners.

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 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 day of acceptance and approval of this Consent Order by the Board.

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 make no representation as to action, if any, which the U.S. Drug Enforcement Administration may take in response to this Order.

Pursuant to Miss. Code Ann. Section 73-25-63(5), this Consent Order shall not be used against Licensee in any other legal proceedings nor does execution of this Consent Order constitutes any acknowledgment of wrongful misconduct or malpractice by Licensee.

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 act and conclusions of law, **GABRIEL PEREZ LASALA, 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 to practice medicine in the State of Mississippi, on probation for five (5) years subject to those terms and conditions listed above.

Executed, this the 19th, day of February, 2013.

GABRIEL PEREZ LASALA, M.D.

ACCEPTED AND APPROVED, this the 21st, day of March, 2013, by the Mississippi State Board of Medical Licensure.

S. Randal Easterling, M.D.
PRESIDENT

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	3/26/13	30 Miss. Admin Code Pt. 2610, R. 2.1.		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 2.1 was modified to delete the requirement of 5 hours of prescribing CME for any physician who does not have a current DEA certificate.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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

_____ Original filing
_____ Renewal of effectiveness
To be in effect in _____ days
Effective date:
_____ Immediately upon filing
_____ Other (specify): _____

PROPOSED ACTION ON RULES

Action proposed:
_____ New rule(s)
__X__ Amendment to existing rule(s)
_____ Repeal of existing rule(s)
_____ Adoption by reference
Proposed final effective date:
__X__ 30 days after filing
_____ Other (specify): _____

FINAL ACTION ON RULES

Date Proposed Rule Filed: _____
Action taken:
_____ Adopted with no changes in text
_____ Adopted with changes
_____ Adopted by reference
_____ Withdrawn
_____ Repeal adopted as proposed
Effective date:
_____ 30 days after filing
_____ Other (specify): _____

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

DO NOT WRITE BELOW THIS LINE

OFFICIAL FILING STAMP	OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
	FILED MAR 26 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	Accepted for filing by	Accepted for filing by

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

SOS APA Form 002
Rev. 6/12

DELBERT HOSEMANN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		601-987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	30 Miss. Admin Code Pt. 2610, R. 2.1.		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit:
   This rule will enable licensees in MS to be aware of who is required to submit 5 hours of CME in prescribing.

2. Briefly describe the need for the proposed rule: This rule amendment clarifies that physicians who have a current DEA certificate should acquire the 5 hours of prescribing CME.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:
   Physicians who have a valid DEA certificate will get training in the prescribing of controlled substances.

4. Estimated Cost of implementing proposed action:
   a. To the agency
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
   c. Cost:
      ☐ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive
   d. Economic Benefit:
      ☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive

6. Estimated impact on small businesses:
   ☐ Nothing ☒ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

   a. Estimate of the number of small businesses subject to the proposed regulation: 6,000
   b. Projected costs for small businesses to comply: Less than $500

c. Statement of probable effect on impacted small businesses: Licensees with valid DEA certificates will have additional training.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☒ the same as ☐ minimally more than ☐ moderately more than
   ☐ substantially more than ☐ excessively more than
8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☐ the same as ☒ minimally more than ☐ moderately more than
   ☐ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
   ☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form. Review if the number of licenses physicians who may or may not have a DEA certificate.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided? In writing to the following address:

Mississippi State Board of Medical Licensure
Attn: Vann Craig, M.D.
1867 Crane Ridge Drive Suite 200-B
Jackson MS 39216

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 3/26/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing

DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Agency is encouraged to use as much space as will adequately answer all questions. A PDF version of this executed Form must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	30 Miss. Admin Code Pt. 2610, R. 2.1.		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

1. Describe the need for the proposed action: To delete the requirement of 5 hours of prescribing CME for any physician who does not have a current DEA certificate.

2. Describe the benefits which will likely accrue as the result of the proposed action: Eliminate contact from physicians asking if they have to acquire the CME.

3. Describe the effect the proposed action will have on the public health, safety, and welfare: There should be no effect on public health, safety and welfare.

4. Estimate the cost to the agency and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues: A minimal cost to the agency and no cost to other state or local government entities.

5. Estimate the cost or economic benefit to all persons directly affected by the proposed action: Cost of acquiring CME should be less than $500 per licensee. The knowledge they gain should be beneficially to their patients.

6. Provide an analysis of the impact of the proposed rule on small business: A very minimal impact on small business.
    a. Identify and estimate the number of small businesses subject to the proposed regulation: 6,000
    b. Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary

for preparation of the report or record: Copies of certificates can be mailed or emailed to Board. Cost should be very minimal.

c. State the probable effect on impacted small businesses: Licensee will gain knowledge and are better able to prescribe controlled substances to patients.
d. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis:
    i. The establishment of less stringent compliance or reporting requirements for small businesses;
    ii. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
    iii. The consolidation or simplification of compliance or reporting requirements for small businesses;
    iv. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
    v. The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations: Licensees without a valid DEA certificate are not required to obtain 5 hours of CME in prescribing.

7. Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule: The cost would be the same.
8. Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law: None
9. Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency: N/A
10. State reasons for rejecting alternative methods that were described in #9 above: N/A
11. Provide a detailed statement of the data and methodology used in making estimates required by this subsection: Review of currently licensed physicians.

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 3/26/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing.

Part 2610 Chapter 2: CME Requirements

Rule 2.1 Basic Requirement. Every Mississippi licensee must earn or receive not less than forty (40) hours of Category 1 continuing medical education in a two-year cycle as a condition precedent to renewing his or her license for the next fiscal year. Five hours must be related to the prescribing of medications with an emphasis on controlled substances. Excess hours may not be carried over to another two-year cycle. *For the purpose of this regulation, the two-year period begins July 1, 2000, and every two years thereafter.*

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

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

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

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

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

A. July 1, 2000 through June 30, 2002 (1^{st} cycle)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rule 2.9 Effective Date of Regulation. The above rules pertaining to continuing medical education shall become effective February 16, 2000.
Amended May 17, 2007; Amended January 24, 2008; and Amended November 15, 2012.

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

Part 2610 Chapter 2: CME Requirements

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

F. Category 1 continuing medical education shall mean those programs of continuing medical education designated as Category 1 which are sponsored or conducted by those organizations approved by the Mississippi State Medical Association, American Medical Association or by the Accreditation Council for Continuing Medical Education (ACCME) to sponsor or conduct Category 1 continuing medical education programs.

G. Programs of continuing medical education designated as Category 1-A which are sponsored or conducted by organizations or entities accredited by the American Osteopathic Association to sponsor or conduct Category 1-A continuing medical education for osteopathic physicians.

H. Programs of continuing medical education designated as a "prescribed hour" which are sponsored or conducted by organizations or entities accredited by the American Academy of Family Physicians to sponsor or conduct "prescribed hours" of continuing medical education.

I. Programs of continuing medical education designated as "cognates" which are sponsored or conducted by organizations or entities which are accredited by the American College of Obstetrics and Gynecology to sponsor or conduct approved cognates on obstetrical and gynecological related subjects.

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

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

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

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

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

E. July 1, 2000 through June 30, 2002 (1st cycle)
F. July 1, 2002 through June 30, 2004 (2nd cycle)
G. July 1, 2004 through June 30, 2006 (3rd cycle)
H. July 1, 2006 through June 30, 2008 (4th cycle)

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

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

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

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

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

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

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

Rule 2.6 Annual Renewal. As a condition for annual renewal of license, beginning with the fiscal year July 1, 2002, through June 30, 2003, every physician will be required to biennially certify on his or her annual renewal form that he or she has earned the required 40 hours of approved Category 1 continuing medical education requirement. The Board will randomly select physicians to ensure complete compliance with this requirement. If deficiencies are identified,

licensee must complete deficiencies within six (6) months of date of notification. Failure to comply may result in the suspension of licensee's license.

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

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

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

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

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

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

Rule 2.9 Effective Date of Regulation. The above rules pertaining to continuing medical education shall become effective February 16, 2000.
Amended May 17, 2007; Amended January 24, 2008; and Amended November 15, 2012.

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

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 21, 2013

AGENDA ITEM: XII. Hearing in the case of Michael Sean Zaleski, DPM

In a motion made by Dr. Mayo, seconded by Dr. Brunson, and carried, the Board requires Dr. Zaleski to have a second evaluation at a Board approved facility. This evaluation will be submitted to MPHP for recommendation to be made to MSBML, and further Dr. Zaleski shall follow all directives thereafter issued by the Board. Further, Dr. Zaleski is not allowed to practice medicine until further Board action.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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			

S. Randall Easterling, M.D.
President

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MARCH 21, 2013

AGENDA ITEM: XII. Hearing in the case of Michael Sean Zaleski, DPM

In a motion made by Dr. Miles, seconded by Dr. Mayo, and carried, the Board directs Dr. Zaleski to submit a corrected application for medical licensure to correct errors on the initial and last renewal application forms.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Mayo, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PODIATRIC PHYSICIAN'S LICENSE

OF

MICHAEL SEAN ZALESKI, D.P.M.

ORDER

WHEREAS, MICHAEL SEAN ZALESKI, D.P.M., hereinafter "Licensee," is the current holder of License No. 80131 for the practice of podiatric medicine in the State of Mississippi;

WHEREAS, there is now pending before the Mississippi State Board of Medical Licensure, hereinafter "Board," eight (8) separate counts of violations of the Mississippi Podiatric Practice Act and Mississippi Disabled Physician Law, as set forth in that certain Summons and Affidavit duly served on Licensee February 7, 2013;

WHEREAS, all parties having appeared before the Board for hearing this date, and the Board being advised of a proposal as a full and complete resolution of the charges now pending; and the Board having considered the terms and conditions of such a resolution, hereby accepts the proposal as presented.

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. 80131) to practice podiatric medicine in the State of Mississippi, to-wit:

1. Licensee shall submit to and complete a comprehensive multi-disciplinary evaluation conducted by a treatment facility approved by the Mississippi Professionals Health Program (hereinafter "MPHP"), under the direction of its Medical Director. Licensee shall bear all costs of said evaluation. Licensee shall execute such releases so as to authorize the treatment facility, its medical director or staff, (1) to contact any and all collateral sources which it deems

necessary to complete the evaluation; (2) to fully communicate with the MPHP and the Board; and (3) to provide the MPHP with a full and complete evaluation report and any other document or record which may be requested by the MPHP.

2. Upon completion of the evaluation, Licensee shall fully comply with any and all treatment recommendations which may be imposed by the treatment facility and MPHP. Further, at such time as requested by the MPHP, Licensee shall take those steps necessary to obtain affiliation and advocacy with MPHP. Licensee shall comply with all affiliation requirements of MPHP, its Medical Director or the Mississippi Professionals Health Committee (hereinafter "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 communicate with the Board as to all aspects of his affiliation and/or recovery.

3. At such time as the evaluation is completed pursuant to Item 1, Licensee shall appear before the Board at the first available meeting date to review the evaluation results and the recommendations from the MPHP. Until such time as Licensee appears before the Board and receives authorization to return to practice, Licensee shall not practice podiatric medicine in any manner or form, directly or indirectly. In this regard the Board reserves the right to impose on Licensee any other restrictions which the Board, in its sole discretion, shall deem necessary to implement the recommendations of the MPHC or to otherwise protect the public.

4. Within the next two (2) weeks, Licensee shall complete an original application for a podiatric licensee and renewal application for the current licensure year, thereby providing him an opportunity to complete all questions in a truthful and accurate manner.

5. 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.

Licensee understands and expressly acknowledges that this Agreed 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.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. §73-25-1 and §13-27-1, 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, **MICHAEL SEAN ZALESKI, D.P.M.**, 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.

SO ORDERED, this the 21st day of March, 2013.

Mississippi State Board of Medical Licensure

By: _____

S. Randall Easterling, M.D., President

AGREED:

_____

Michael S. Zaleski, D.P.M.

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME	CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure	Rhonda Freeman	(601) 987-3079	
ADDRESS	**CITY**	**STATE**	**ZIP**
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	**SUBMIT DATE**	**Name or number of rule(s):**	
rhonda@msbml.ms.gov	03/26/13	30 Miss. Admin Code Pt. 2630, R.1	

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This rule has been rewritten to address issues regarding the collaboration of a physician with a nurse practitioner.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

ORAL PROCEEDING:

☒ An oral proceeding is scheduled for this rule on Date: 3-20-2013 Time: 3:00 p.m. Place: Board Office

☐ 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	**Action proposed:**	**Date Proposed Rule Filed:** 02/15/2013
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	_____ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_X_ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	_____ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_X_ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		FILED MAR 2 0 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	**Accepted for filing by**	**Accepted for filing by**

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

Title 30: Professions and Occupations

Part 2630 Collaboration

Part 2630 Chapter 1: Collaboration with Nurse Practitioners

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi. Because discipline may be imposed for failure to meet the standard of practice in connection with collaborative agreement with any advanced practice registered nurse (APRN), the Board of Medical Licensure has determined that it is reasonable, necessary and in the public interest to adopt the following rules detailing what it considers to be the standard of practice. These rules are to inform and educate physicians in collaborative relationships as to what the Board of Medical Licensure considers to be the responsibilities of such physicians. These rules intend to be practical and flexible enough to address a variety of situations and specialties. The Board of Medical Licensure does not intend to restrict patient access to essential healthcare in the state of Mississippi.

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

Rule 1.2 Definitions. For the purpose of Part 2630, Chapter 1 only, the following terms have the meanings indicated:

A. "Advanced Practice Registered Nurse (APRN)" is a person who is licensed or holds the privilege to practice under Miss. Code Ann. Section 73-15-5, and who is nationally certified as an advanced practice registered nurse or in a specialized nursing practice which includes certified nurse midwives (CNM), certified nurse anesthetists (CRNA), clinical nurse specialists (CNS) and certified nurse practitioners (CNP).

B. "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.

C. "Primary Collaborating Physician" means a physician who, pursuant to a duly executed protocol, has agreed to adhere to the responsibilities implied by the collaborative agreement with an APRN as outlined in 73-43-11. This responsibility includes, but is not limited to, adherence to the Quality Assurance Program set out in these rules.

D. "Secondary Collaborating Physician" ("Back-up Physician") is a physician who, pursuant to a duly executed collaborative agreement, agrees to perform the duties of the primary collaborating physician, including adherence to these rules, when the primary collaborating physician is unavailable. The classification secondary physician may also be applied when the physician is collaborating with a nurse practitioner who is working 20 hours or less a week for a clinic but has a full-time primary physician in collaboration at another site. When the secondary collaborating physician is acting as the primary all of the following rules apply.

The collaborative agreement shall not include medications the physician does not use in his or her current practice and about which the physician is not knowledgeable and competent.

Before entering into a collaborative agreement, a physician should consider the following when determining the degree of autonomy the agreement provides:

A. the physician's personal knowledge and ability to provide the time to the collaborative agreement;
B. the type of practice;
C. the scope of practice of the APRN;
D. the educational training and experience of the APRN;
E. the geographic location of the physician's practice and the practice of the APRN and their ability to consult in a manner that assures patient safety; and
F. the technology available to the physician and APRN to allow effective communication and consultation.

Physicians are prohibited from entering into a collaborative agreement with an APRN whose practice location is greater than forty (40) miles from the physician's practice site, unless a waiver is expressly granted by the Board for that particular collaborative agreement. However, a collaborative physician (primary or secondary) must be within 40 miles from the actively practicing APRN. Collaborative agreements which have previously been granted as waivers at the time of adoption of these rules will continue to be exempt from this requirement.

Anytime a collaborating physician is working with an APRN who is working in and/or staffing an emergency room the collaborative physician (primary or secondary) must be physically present in the building or no more than ten (10) minutes from the facility. An exception to this policy would be Board approved telemanagement arrangements.

Anytime a collaborating physician is working with an APRN who is working in and/or providing care in an acute care facility, there must be evidence reflected in the patient's chart that a collaborative physician has seen and examined the patient within twelve (12) hours of the APRN initially seeing the patient on admission.

Physicians are prohibited from entering into primary collaborative agreements with more than four (4) APRN's at any one time unless a waiver is expressly granted by the Board for that particular collaborative agreement. However, a physician may be in collaboration as the secondary physician on four (4) additional collaborative agreements and no QA, as defined under Rule 1.4, will be required for these additional APRNs. A secondary physician status may be given to a physician who is collaborating with up to two (2) APRNs who are working less than 20 hours per week at another clinic not in the same practice as the APRN's primary place of work. A QA review will be required quarterly.

The Board will consider the factors listed above, as well as any other factors that the Board deems relevant, in determining whether to grant a waiver. Such waivers may be granted to medical practices with multiple physicians including, but not limited to, the following settings:

A. emergency rooms;
B. intensive care units;

C. labor epidural services on obstetrical suites
D. State Department of Health;
E. State Department of Mental Health;
F. federally funded health systems (e.g. FQHCs, VAMCs); and
G. community mental health centers.

Physicians shall complete a questionnaire pertaining to APRNs upon initial licensure and during each annual renewal process.

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

Rule 1.4 Quality Assurance Program. Physicians entering into collaborative agreements shall implement a quality assurance program which shall include:

A. Review by the primary collaborating physician of a random sample of charts that represent 10% or 20 charts, whichever is less, of patients seen by the APRN every month. Charts should represent the variety of patient types seen by the nurse practitioner. Each patient encounter that the nurse practitioner and collaborating physician have consulted on during the month will count as one chart review.
B. Review of the controlled medications prescribed by the APRN revealed in the chart review. The physician may also make review through the Board of Pharmacy Prescription Monitoring Program.
C. The primary collaborating physician shall meet face to face with the APRN once per quarter for the purpose of quality assurance and this meeting should be documented.
D. Secondary physicians for APRNs who work less than 20 hours per week at a clinic shall meet face to face with the APRN once per quarter for the purpose of quality assurance and this meeting should be documented.
E. The collaborating physician must insure that the APRN maintains a log of charts reviewed, including:
    1. the identifier for the patients' charts;
    2. reviewers' names; and
    3. dates of review.

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

Rule 1.5 Disability of Primary Collaborating Physician. In the event of death, disability (physical/mental) or unanticipated relocation of a primary collaborating physician, the secondary collaborating physician shall act as the primary collaborating physician. In the event the APRN has no secondary collaborating physician, the APRN must notify the Mississippi Board of Nursing, which will then immediately notify the Board. In such cases, the APRN may continue to practice for a 90-day grace period while the APRN attempts to secure a primary collaborating physician without such practice being considered the practice of medicine. The Board or its designee, will serve as the APRN's primary collaborating physician with the approval of the Mississippi Board of Nursing. The Board and the Mississippi State Board of Nursing will assist the APRN in their attempt to secure a primary collaborating physician. If a primary collaborating 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 Board

of Nursing and the Executive Committee of the Board. 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 Board is agreed upon. The Quality Assurance process that was in place will be continued by the Board of Medical Licensure during the extension.

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

Rule 1.6 Violation of Rules. Any violation of the rules as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 1.7 Effective Date of Regulation. The above rules pertaining to collaborating physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009. Amended March 21, 2013.

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

E. "Collaborative Agreement" means a written agreement between a physician, either primary or secondary as defined above, and an APRN. The collaborative agreement must be individualized to the specific collaborative practice.
F. "Acute Care Facility" means a hospital facility in which patients with acute medical conditions (e.g. cardiac, pulmonary, stroke, acute psychiatric hospitals, etc.) are being cared for by APRNs.
G. "Board" means the Mississippi State Board of Medical Licensure.

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

Rule 1.3 Requirements for Collaborating Physicians. Primary and secondary collaborating physicians must:

A. hold a current unrestricted license in the state of Mississippi and actively provide direct patient care at least eight (8) hours weekly;
B. notify the Board within seven (7) working days of entering into or termination of any collaborative agreement;
C. insure that the primary collaborative physician(s) name(s) is/are displayed for public view at the APRN's practice site; and
D. enter into a collaborative agreement with the APRN, which is written, signed and dated by both the APRN and physician, and which must:
    1. remain in the practice site of the collaborating physician should there be a site visit by the Board;
    2. define the scope of practice, including mutually agreed upon collaborative agreements and guidelines for the healthcare provided;
    3. agree upon medication formulary to be used by APRN and physician in practice. The collaborative physician has the right to use the Mississippi Prescription Monitoring Program to review the APRN's controlled substance prescribing practices;
    4. describe the individual and shared responsibilities of the APRN and physician;
    5. be reviewed and updated annually by the physician and the APRN; and
    6. set out a procedure for handling patient emergencies, unexpected outcomes or other urgent practice situations.

A physician shall not enter into a collaborative agreement with an APRN whose training and practice is not compatible with that of the physician (it is recognized and accepted practice that surgeons, obstetricians and dentists have collaborative arrangements with CRNAs). It is recognized that CRNAs commonly work in the anesthesia care team model where one anesthesiologist may be collaborating with up to four CRNAs concurrently. In the model, a group of anesthesiologists may collaborate with a group of CRNAs. In this instance, it is acceptable to list multiple collaborators on the CRNA's protocol. If the usual practice is for one anesthesiologist to collaborate with more than four CRNAs concurrently, then a waiver must be requested and approved by the Board. Any other arrangement must adhere to the standard rules of collaboration that exists for an APRN. Unless otherwise waved, this rule applies to hospital settings and surgical suites only. This same model shall also apply to emergency medicine group practices.

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collaborating 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 Board of Nursing and the Executive Committee of the Board. 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 Board is agreed upon. The Quality Assurance process that was in place will be continued by the Board of Medical Licensure during the extension.

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MAY 2013

MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 15, 2013

MEMBERS PRESENT:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary

ALSO PRESENT:

H. Varin 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
Tamika Curley, Investigator, Investigative Division
Charles Ware, Investigator, Investigative Division
Ruby Litton, RN, Compliance Officer
Sherry H. Pilgrim, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, May 15, 2013, at 1:10 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

PERSONAL APPEARANCE BY ERICA LYNN NOYES, M.D., CORINTH, MISSISSIPPI MEDICAL LICENSE NUMBER 16082

Dr. Noyes was present at the meeting and joined by her attorney, Doug Mercier. Dr. Noyes had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

At the request of Mr. Mercier over possible legal concerns for his client, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried that the Executive Committee move to go into Executive Session to discuss a matter which could adversely affect Dr. Noyes' medical license.

Upon a motion by Dr. Crawford, seconded by Dr. Aycock, and carried the Executive Committee came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Committee's decision. Dr. Aycock advised that the Executive Committee will recommend to the Full Board that Dr. Noyes limits her collaborative relationships to one (1) full-time practitioner at her primary location, and no secondary collaborative relationships for the next two (2) years.

PERSONAL APPEARANCE BY TERESA A. WILLIAMSON, M.D., PASCAGOULA, MISSISSIPPI MEDICAL LICENSE NUMBER 11797, AND PA-C TARA JOHNSON

Dr. Craig briefly discussed a letter that the Board received from Singing River Health Systems concerning Dr. Williamson and PA Johnson. Dr. Craig advised that the request was basically to allow the physician assistant to work independently at the Pascagoula Wal-Mart which is 1.16 miles from Dr. Williamson's practice. Both individuals were invited to the meeting today to discuss their request since this is not the normal practice of a physician and physician assistant.

A check of the reception area and meeting revealed that they were not present. After a brief discussion, the Executive Committee agreed that Dr. Craig send both individuals a letter requesting that they appear at the July Executive Committee meeting to discuss their request, and also advise them that if they are currently practicing as proposed that they should cease doing so immediately.

PERSONAL APPEARANCE BY BRYAN TIPTON SULLIVAN, DPM, JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 80089

Dr. Craig briefly discussed that Dr. Sullivan had been invited to appear before the Executive Committee to discuss a malpractice claim for an unnecessary procedure. Dr. Craig advised that the patient was scheduled to have a procedure performed on the left foot and Dr. Sullivan performed the procedure on both feet.

Dr. Sullivan joined the meeting and was represented by legal counsel, Collier Graham. Dr. Sullivan had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference.

Dr. Sullivan addressed the Executive Committee and explained the details surrounding the surgery and advised that when he realized that he had performed surgery on the wrong foot, he then corrected the problem by operating on the left foot. Dr. Sullivan explained the error and then discussed changes and procedures that have been implemented to alleviate this occurring in the future. Dr. Sullivan responded to several questions from the Executive Committee before Dr. Easterling thanked him for

appearing and advised him that the Executive Committee would discuss the matter and make a recommendation to the Full Board tomorrow.

After a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried to write Dr. Sullivan a letter advising that his explanation was acceptable and the Board would close the matter without further investigation.

PERSONAL APPEARANCE BY F. LEE NEAL, M.D., PICAYUNE, MISSISSIPPI MEDICAL LICENSE NUMBER 13550

Dr. Craig advised that Dr. Neal had been invited to appear before the Executive Committee to discuss his application and documents submitted for him to be approved for a pain management practice. Dr. Craig advised that this process has been ongoing for some time and the Board still does not have all the requested information. Dr. Craig advised that it is his understanding that Dr. Neal continues to practice as pain management without the proper certification.

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

After the introductions, Dr. Neal addressed the Executive Committee and stated that he was given a pain management certificate in February 2012, which expired June 2012. Dr. Neal advised the renewal was denied and that he and his attorney had been working on providing the requested documents. Dr. Neal advised that he had a copy of his 2012 federal tax return but failed to provide the Board with a copy before he left.

After several questions from the Executive Committee, Dr. Neal was advised that he immediately reduce the percentage of pain management patients that receive prescriptions for controlled substance medications to be below 50%, and that the Board will be monitoring his compliance. When questioned by the Board as to why he was continuing to practice pain management without certification, which is in violation of the Board's rules and regulations, Dr. Neal advised that his legal counsel had advised him to continue. Dr. Easterling thanked Dr. Neal for appearing and told him that he would be notified of the Board's decision.

Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried that Dr. Craig send Dr. Neal a letter advising that he has not been issued a certificate to practice as pain management yet he continues to do so. Also, Dr. Neal is to be reminded that he is to immediately reduce the percentage of pain

management patients receiving prescriptions for controlled medications to below 50%, and that the Board will be monitoring for compliance.

DISCUSS WAIVER REQUEST FOR DANIEL RAMIREZ, M.D., NEW ORLEANS, APPLICANT

Dr. Craig advised that Dr. Ramirez is an applicant that took longer than the Board's requirement of seven (7) years to complete all steps of the USMLE. Dr. Craig advised that the residency program that Dr. Ramirez was in did not require step III of the USMLE at a certain level, so he took it during the final years of his training.

After a brief discussion, the Executive Committee unanimously agreed that based on the information provided that sufficient documentation was presented allowing extenuating circumstances for a waiver to be granted.

JOHN D. FRUSHA, M.D., BATON ROUGE, MISSISSIPPI MEDICAL LICENSE NUMBER 17490, VOLUNTARY SURRENDER

For informational purposes only, Dr. Craig advised that the Board had received a voluntary surrender on Dr. Frusha. Dr. Craig advised that the voluntary surrender was non-reportable with the understanding that it is considered public record in Mississippi. Should Dr. Frusha wish to later reinstate his Mississippi license, the Board has the right to use any information on file or later supplied in consideration of his request. A copy of the Voluntary Surrender is attached hereto and incorporated by reference.

J. STEVEN BLAKE, D.O., PHILADELPHIA, PA, MISSISSIPPI MEDICAL LICENSE NUMBER 12581, AGREED ORDER OF REPRIMAND

Dr. Craig advised that the Board had sent Dr. Blake an Agreed Order of Reprimand mirroring actions taken by another board for failure to submit his fingerprints for a criminal background check and other requested information.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried to accept the Agreed Order of Reprimand. A copy of the Order is attached hereto and incorporated by reference.

JAMES CLAUDE WRIGHT, D.O., LAKE VILLAGE, AR, MISSISSIPPI MEDICAL LICENSE NUMBER 15489, CONSENT ORDER

Dr. Craig advised that the Board had sent Dr. Wright a Consent Order mirroring actions taken by another board which he signed and returned. Dr. Craig advised that Dr. Wright has agreed to enter into a Recovery Contract Agreement with the Mississippi Professionals Health Program and that the Board will receive quarterly reports.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried that the Board accept the Consent Order. A copy of the Order is attached hereto and incorporated by reference.

BENJAMIN A. MARBLE, M.D., LONG BEACH, MISSISSIPPI MEDICAL LICENSE NUMBER 18076, REQUEST FOR RESTRICTIONS TO BE LIFTED

Dr. Craig advised that Dr. Marble has complied with all of the restrictions of his Board Order dated September 2012, and has requested lifting of the restrictions. After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried to grant his request and remove all restrictions. A copy of the Order Removing all Restrictions is attached hereto and incorporated by reference.

FRANCIS C. HUBER, M.D., LEWISBURG, WV, MISSISSIPPI MEDICAL LICENSE NUMBER 09389, VOLUNTARY SURRENDER

For informational purposes only, Dr. Craig advised that the Board had received a Voluntary Surrender from Dr. Huber. Dr. Craig advised that the Voluntary Surrender is considered a public record. A copy of the Voluntary Surrender is attached hereto and incorporated by reference.

THE EXECUTIVE COMMITTEE RECESSED AT 3:00 P.M. AND RETURNED AT 3:10 P.M.

ELLEN O'NEAL EXITED THE MEETING DURING THE RECESS

DISCUSS REPORTS FROM THE EXAMINING COMMITTEE

Dr. Craig advised that physician #1 had been advised by the Examining Committee after evaluation that he go for treatment. Dr. Craig advised that he is now in treatment and has been pain free for approximately 60 days. Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried that the Board accept the report until further comments/evaluations are provided. Dr. Scott Hambleton, Medical Director,

Mississippi Professionals Health Program (MPHP), added that the physician will be monitored by MPHP for five (5) years.

Dr. Craig advised that physician #2 had reluctantly gone for an evaluation by the Examining Committee. The Examining Committee's report advised that he submit and complete a comprehensive, multiple-day psychiatric evaluation and provided him with three (3) choices. Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried to accept the report until further comments/evaluations are provided.

DISCUSS WAIVER REQUEST FOR BASIL SHAH, M.D., HARAHAN, LA

Dr. Craig advised that Dr. Shah is requesting a waiver from taking the USMLE based on his training and the fact that he has taken the FMGEMS. Dr. Craig advised that Dr. Shah is board certified and is licensed in Georgia, Louisiana and Pennsylvania, and wants to move to Mississippi to work at Memorial Hospital in Gulfport. The Executive Committee reviewed Dr. Shah's CV before a motion was made by Dr. Aycock, seconded by Dr. Crawford and carried that based on the information provided that sufficient documentation was presented allowing the Board to grant Dr. Shah's waiver request.

INVESTIGATORS DISCUSS A MATTER CONCERNING A PHYSICIAN

Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried that the Executive Committee enter into Executive Session to discuss a matter concerning a physician that could adversely affect his license.

Upon a motion by Dr. Crawford, seconded by Dr. Aycock, and carried the Executive Committee came out of Executive Session. Dr. Easterling asked Dr. Aycock to report on the Committee's decision. Dr. Aycock advised that the Committee provided guidance and direction in an investigative case with no action taken.

REVIEW OF MAY 16, 2013, BOARD AGENDA

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

ADJOURNMENT

There being no further business, the meeting adjourned at 4:20 p.m.

S. RANDALL EASTERLING, M.D.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
May 15, 2013

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **Erica Lynn Noyes, M.D.,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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:

   X with legal counsel present (name of counsel: D Marcel)

   ___ without legal counsel present

EXECUTED, this the 15 day of May, 2013.

LICENSEE

Witness: Sherry Pilgrim

Erica C. Noyes

NAME PRINTED

EXECUTIVE SESSION - EXECUTIVE COMMITTEE
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 15, 2013

AGENDA ITEM: Personal appearance by Erica Lynn Noyes, M.D.

The Executive Committee recommends to the full Board that Dr. Noyes will limit her collaboration to 1 full time APRN in her primary practice location and NO secondary APRN collaborations for a period of 2 years.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
S. Randall Easterling, M.D.	X			
Virginia M. Crawford, M.D.	X			
Larry B. Aycock, M.D.	X			

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

S. Randall Easterling, M.D.
President

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **Bryan Tipton Sullivan, DPM,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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:

   X with legal counsel present (name of counsel: Collier Graham)

   ___ without legal counsel present

EXECUTED, this the 15 day of August, 2013.

LICENSEE

Witness: Sherry Pilgrim

NAME PRINTED

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **F. Lee Neal, M.D.,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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:

X with legal counsel present (name of counsel: Phillip Hearn)

___ without legal counsel present

EXECUTED, this the 15th day of ~~April~~ May, 2013.

LICENSEE

Witness: Sherry Pilgrim

F. Lee Neal, MD
NAME PRINTED

SURRENDER OF MEDICAL LICENSE

To: H. Vann Craig, M.D.
Executive Director
Mississippi State Board of Medical Licensure

WHEREAS, I, JOHN D. FRUSHA, M.D., am the holder of License Number 17490, issued on January 14, 2002, to practice medicine in the State of Mississippi;

WHEREAS, It is my wish to surrender my current license (No. 17490) to practice medicine in the State of Mississippi so that I may retire with a clear and unencumbered license;

THEREFORE, I hereby voluntarily surrender medical license (No. 17490) to practice medicine in the State of Mississippi, said surrender effective the 20 day of April, 2013.

I understand that this is a voluntary surrender, and as such, is not a reportable disciplinary action, but is a public record of the State of Mississippi. In the event I later decide to practice medicine in the State of Mississippi, I understand it will be necessary for me to make application with the Board. At such time, the Board reserves the right to utilize any and all information now or which it may later obtain as part of the consideration of any application.

EXECUTED this the 20 day of April, 2013.

JOHN D. FRUSHA, M.D.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JAMES STEVEN BLAKE, D.O.

AGREED ORDER OF REPRIMAND

WHEREAS, James Steven Blake, D.O., hereinafter referred to as "Licensee," is the current holder of License No. 12581, issued July 2, 1990, to practice medicine in the State of Mississippi;

WHEREAS, Pursuant to 29 Del. C. §8735 (v)(1)d, a properly noticed Rule to Show Cause hearing was conducted before a Hearing officer to enable Dr. J. Steven Blake ("Dr. Blake" or Respondent") to show cause why his medical license should not be disciplined for failure to comply with the requirements of 24 Del. C. §1720(I) which requires all physicians and other practitioners licensed by the Board of Medical Licensure and Discipline ("Board") prior to July 1, 2007 to submit fingerprints and other necessary information on or before January 1, 2012. A routine review of records of the Board disclosed that J. Steven Blake, D.O., had not fulfilled this statutory requirement as of the date specified by the legislature. Dr. Blake was notified of his noncompliance and was requested, in writing, to come into compliance. He was also given the option of relinquishing his license provided he did so on or before October 8, 2012. By the unanimous vote of the participating board members of the Board of Medical Licensure and Discipline, Dr. Blake was issued a written letter of reprimand with certain terms and conditions (Exhibit A);

WHEREAS, pursuant to Subsection (9) of Section 73-25-29, Mississippi Code (1972), Annotated, the aforementioned Order 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 the issuance of a formal public reprimand by the Mississippi State Board of Medical Licensure;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with the consent of Licensee as signified by his joinder herein, does hereby formally Reprimand Licensee.

Licensee further understands that violation of this Order or any other Orders or Agreements that Licensee has entered into, or is subject to from other Licensing authorities shall constitute evidence of unprofessional conduct and will be grounds for further disciplinary action by the Mississippi State Board of Medical Licensure. Licensee shall comply with all Federal and State laws governing the practice of medicine.

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 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 of the resolution of the 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.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Mississippi Code annotated, 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 Steven Blake, D.O., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Reprimand.

Signed this the 22 day of April 2013.

James Steven Blake, D.O.

ACCEPTED AND APPROVED this the 16th day of May 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D., President
Mississippi State Board of Medical Licensure

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

JAMES CLAUDE WRIGHT, D.O.

CONSENT ORDER

WHEREAS, James Claude Wright, D.O., hereinafter referred to as "Licensee," is the current holder of License No. 15489, issued August 18, 1997, for the practice of medicine in the State of Mississippi;

WHEREAS, on December 19, 2012, Licensee executed a Consent Agreement with the Arkansas State Medical Board, which placed certain conditions on Licensee's Arkansas medical license after findings by the Arkansas State Medical Board that Licensee had violated the Medical Practice Act, more specifically, ACA § 17-95-409(a)(2)(H), that is, he has violated the laws of the United States and the State of Arkansas by utilizing Schedule Drugs for non-medical reason;

WHEREAS, as a result of the above violation of the Medical Practice Act, Licensee was issued a REPRIMAND, subject to the following:

1. Licensee will attend and complete a Continuing Medical Education course in Boundaries and will appear and report back to the Board as to his completion.

2. Licensee will reimburse the Arkansas State Medical Board its cost of this investigation and hearing of $641.00 within one year from the date of this Order and pay to the Arkansas State Medical Board a total fine of $1,000.00 within one year from the date of this Order.

3. Licensee will enter into a five year Contract for Monitoring and Rehabilitation with the Arkansas Medical Foundation.

4. Licensee will authorize the Arkansas medical Foundation to release to the Arkansas State Medical Board all records of compliance and non-compliance and his entire history with the Foundation.

5. Licensee will comply with the terms of His Contract for Monitoring and Rehabilitation with the Arkansas medical Foundation for those terms are considered as terms of this Order and that he attend all such meetings of the Board until released from the same.

WHEREAS, pursuant to Subsections (8)(d) and (9) of Section 73-25-29, Mississippi Code (1972), Annotated, the aforementioned actions by the Arkansas State Medical Board constitute 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 order that this Consent Order

shall constitute a Public Reprimand of Licensee, and that Licensee is hereby reprimanded subject to the following terms and conditions:

1. Licensee shall comply with all terms and conditions of his Arkansas State Medical Board Order.
2. Licensee shall enter into a Recovery Contract Agreement for monitoring by the Mississippi State Professionals Health Program (MPHP).
3. Licensee will authorize the MPHP to release to the Mississippi State Board of Medical Licensure quarterly reports of all records of compliance and non-compliance and his entire history with MPHP.
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".
5. 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.
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.

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 Order with the Arkansas State Medical 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 Arkansas State Medical Board 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, James Claude Wright, D.O., 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.

Executed, this the 18th, day of April, 2013.

James Claude Wright D.O.
James Claude Wright, D.O.

ACCEPTED AND APPROVED, this the 16th, day of May, 2013, by the Mississippi State Board of Medical Licensure.

S. Randle Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

BENJAMIN ALBORN MARBLE, M.D.

ORDER REMOVING ALL RESTRICTIONS

THIS MATTER came on regularly for consideration on May 15, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Benjamin Alborn Marble, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on his Mississippi medical license by virtue of that certain Consent Order dated September 27, 2012. 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 effective May 16, 2013.

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 Benjamin Alborn Marble, M.D.

ORDERED, this the 16th day of May 2013.

Mississippi State Board of Medical Licensure

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

FRANCIS CHRISTIAN HUBER, M.D.

SURRENDER OF MEDICAL LICENSE

WHEREAS, FRANCIS CHRISTIAN HUBER, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 09389, which was originally issued on June 29, 1981, to practice medicine in the State of Mississippi;

WHEREAS, said license expired on June 30, 1982, and was reinstated on May 19, 2003;

WHEREAS, during August 2011 - May 2012, the Investigative Staff of the Board conducted a comprehensive investigation into the medical practice of Licensee in Gulfport, Mississippi, and documented evidence indicating that Licensee has violated the Rules and Regulations of the Board, "Pertaining to Prescribing, Administration, and Dispensing of Medication," in that Licensee is guilty of unprofessional conduct which includes being guilty of dishonorable or unethical conduct likely to deceive, defraud or harm the public; is guilty of failing to conduct an appropriate risk/benefit analysis by review of previous medical records, which indicate a need for long-term controlled substance therapy; is guilty of failing to document a written treatment plan which contains stated objectives as a measure of successful treatment and planned diagnostic evaluations; is guilty of providing false and/or misleading statements to the Board; 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 Mississippi Code Ann., Section 73-25-29(3), (8)(d),(f), and (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 09389) 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 20th day of April, 2013.

Francis Christian Huber, MD

FRANCIS CHRISTIAN HUBER, M.D.

ACCEPTED AND APPROVED this the 30th day of April 2013, by the Mississippi State Board of Medical Licensure.

H Vann Craig

H. Vann Craig, M.D.
Executive Director
Mississippi State Board of Medical Licensure

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 16, 2013

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, May 16, 2013, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William B. Jones, M.D., Greenwood
William S. Mayo, D.O., Oxford
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
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer

Not present:

Philip T. Merideth, M.D., J.D., Jackson
Wesley Breland, Hattiesburg, Consumer Health Committee
Charles Thomas, Yazoo City, Consumer Health Committee

The meeting was called to order at 9:05 a.m. by Dr. Easterling, President. The invocation was given by Dr. Miles and the pledge was led by Dr. Jones. Dr. Easterling welcomed Melissa Magee, Court Reporter, and extended a welcome to all visitors present at the meeting.

Dr. Easterling opened the floor for public comments, remarks or announcements. Dr. Craig recognized Rhonda Freeman, Bureau Director, Licensure Division, for receiving the Distinguished Service Award at the Administrators in Medicine annual meeting in

Boston. Also, Dr. Craig advised that the agency has two (2) employees who will be retiring shortly. Dr. Craig read the Resolutions and recognized Shirley Thomas for ten years and nine months in the Investigative Division as an Administrative Assistant, and Ruby Litton, RN, for five and a half years as the Board's Compliance Nurse in the Investigative Division. A copy of each Resolution is attached hereto and incorporated by reference.

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD MARCH 01, 2013, THROUGH APRIL 30, 2013

Three-hundred thirteen (313) licenses were certified to other entities for the period March 01, 2013, through April 30, 2013. Motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously to approve the certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD MARCH 01, 2013, THROUGH APRIL 30, 2013

Ninety-seven (97) licenses were issued for the period March 01, 2013, through April 30, 2013. Motion was made by Dr. Miles, seconded by Dr.Mayo, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED MARCH 20, 2013, MINUTES OF THE ORAL HEARING DATED MARCH 20, 2013, AND MINUTES OF THE BOARD MEETING DATED MARCH 21, 2013

Minutes of the Executive Committee meeting dated March 20, 2013, Minutes of the Oral Hearing dated March 20, 2013, and Minutes of the Board meeting dated March 21, 2013, were reviewed. Dr. Mayo moved for approval of the minutes as submitted. Dr. Crawford seconded the motion and it carried unanimously.

REPORT OF MAY 15, 2013, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered a number of appearances and issues that were discussed by the Executive Committee on May 15, 2013. Information pertaining to the decisions of the Executive Committee is included in the Executive Committee Minutes dated May 15, 2013.

Dr. Easterling stated that the Executive Committee moves that their actions/decisions be approved. Dr. Mayo seconded the motion and it carried unanimously.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Brunson (Chair), Dr. Easterling, Dr. Jones, Dr. Chance, Dr. Miles, Mr. Thomas

Dr. Brunson was not present, but Dr. Easterling advised there was no new information to report.

Professionals Health Program - Dr. Chance (Chair), Dr. Crawford, Dr. Aycock

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

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

Dr. Mayo advised that the committee met this morning and was reviewing the comments received on the proposed pain management regulation as well as changes that the committee was discussing. Dr. Mayo stated that the Board would possibly have an oral hearing on the matter at the July meeting.

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

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

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

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

Licensure Process - Dr. Brunson (Chair), Dr. Craig, Ms. Freeman

Dr. Brunson was not present, but Dr. Craig advised there was no new information to report.

REPORT FROM THE NOMINATING COMMITTEE

Dr. Brunson is Chair of the Nominating Committee but was not present. Dr. Mayo advised that the committee had met and was proposing that with the consent of the current officers they remain in their position another year to end 6/30/2014. Dr. Chance seconded the motion and it carried unanimously.

DR. BRUNSON ARRIVED AT 9:40 A.M.

PRESENTATION BY J. DANIEL GIFFORD, M.D.,FSMB DIRECTOR AND LIAISON FOR THE FEDERATION OF STATE MEDICAL BOARDS AND CHIEF ADVOCACY OFFICER LISA ROBIN

Dr. Gifford and Ms. Robin provided the Board with an informative presentation concerning the Federation of State Medical Boards and how they work with all 70 member boards in providing direction and assistance. Ms. Robin advised that she works at the office in Washington, DC, and explained how they work with different legislative branches of the government to provide the Federation's view with healthcare issues.

Following several questions, Dr. Easterling thanked them for coming and making the presentation at today's meeting.

OTHER BUSINESS

Dr. Easterling advised that there was a litigation matter that the Board needed to discuss. Motion was made by Dr. Miles, seconded by Dr. Jones, and carried that the Board enter into Executive Session to discuss pending litigation filed against the Board. Upon returning from Executive Session, Dr. Easterling advised that no action was taken.

SHOW CAUSE HEARING IN THE CASE OF DAVID Z. LEVINE, D.O., APPLICANT, AUBURN, WA

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Levine and his attorney, Thomas Kirkland. Mr. Ingram advised that Dr. Levine was here today in response to an Order to Show Cause due to concerns with his application for licensure, and to provide Dr. Levine the opportunity to show the Board why his application should not be denied.

Mr. Ingram addressed the Board by providing a background and summarizing the Order to Show Cause before he entered several exhibits into the record. Mr. Ingram advised that since Dr. Levine's application file is all electronic that there is a cover sheet on each exhibit that is a Declaration of Authenticity of Electronic Records. Mr. Ingram also advised the Board that Dr. Levine had waived the 30 day notice to appear in order to have his hearing today.

Mr. Ingram called Scott Hambleton, M.D., Medical Director, Mississippi Professionals Health Program (MPHP) to the witness stand and he was sworn in by the

court reporter. Dr. Hambleton gave a brief summary of Dr. Levine's background and discussed the conversations he has recently had with Menninger and Pine Grove. Dr. Hambleton stated that he feels Dr. Levine can practice safely and that he was here to advocate in his behalf. Following several questions from Board members, Dr. Hambleton exited the witness stand.

Mr. Kirkland called Dr. Levine to the witness stand and he was sworn in by the court reporter. Dr. Levine stated that he currently has an unrestricted license in the state of Washington. Dr. Levine discussed a job offer that he has at Tutwiler with Sister Anne Brooks, D.O., as well as being offered hospital privileges. Following several questions from Board members, Dr. Levine exited the witness stand.

Mr. Kirkland called Dr. Sister Anne Brooks to the witness stand and she was sworn in by the court reporter. Dr. Brooks verified that she has offered Dr. Levine a position and that she was interested in having him come to work with her in Tutwiler. Dr. Brooks briefly discussed her practice, the need for additional help, and requested that the Board grant Dr. Levine a Mississippi medical license so that he could work in her clinic. Dr. Easterling thanked Dr. Brooks and she exited the witness stand.

Motion was made by Dr. Chance, seconded by Dr. Mayo, and carried that the Board enter into Executive Session to consider Dr. Levine's request for licensure or possibly adverse action that could be taken.

Upon a motion by Dr. Mayo, seconded by Dr. Chance, and carried unanimously the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that the Board voted to allow Dr. Levine to proceed with his application for a medical license. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Melissa Magee, Court Reporter.

HEARING IN THE CASE OF JAMES BUELL DENNEY, M.D., SLIDELL, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 14258

Stan Ingram, Complaint Counsel for the Board, requested that Investigator Jonathan Dalton to survey the Board premises to determine if Dr. Denney was present. A check of the lobby as well as verifying that Dr. Denney had not signed in with the receptionist revealed that he was not present. It was noted that the hearing was to begin at 10:00 a.m. and it was then 11:35 a.m.

Mr. Ingram addressed the Board and covered the Summons and Affidavit that were hand delivered by Mr. Dalton on April 10, 2013. Also, Mr. Ingram advised that Dr. Denney has not requested a continuance nor has he filed and answer or response to the Board within the fifteen (15) days allowed concerning the counts listed in the Summons and Affidavit. Mr. Ingram advised by virtue of the Board's Rules of Procedure Dr. Denney is admitting to the counts. Mr. Ingram advised the Board of their options and the Board agreed to have the hearing in absentia.

Mr. Ingram called Investigator Dalton to the witness stand and he was sworn in by the court reporter. Mr. Dalton briefly summarized the Summons and Affidavit and advised the Board of recent action taken by the Louisiana Medical Board. Following several questions from Board members, motion was made by Dr. Mayo, seconded by Dr. Chance, and carried that the Board enter into Executive Session to discuss action that could adversely affect Dr. Denney's medical license.

Upon a motion by Dr. Miles, seconded by Dr. Jones, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that based on the evidence presented and no opposition that the Board found Dr. Denney guilty on all VII Counts as charged and hereby revokes his Mississippi medical license.

THE BOARD RECESSED FOR LUNCH AT 11:50 A.M. AND RETURNED AT 12:55 P.M.

REQUEST FROM KSTAR TO BE ADDED TO THE BOARD'S APPROVED LIST FOR COMPETENCY EVALUATIONS

Dr. Craig briefly discussed a request from KSTAR to be added to the Board's approved list of providers that offer competency evaluations for physicians that have not practiced for some time. Also, Dr. Craig advised that the Texas Medical Board uses KSTAR.

Motion was made by Dr. Aycock, seconded by Dr. Mayo, and carried unanimously to add KSTAR to the Board's approved list of treatment facilities.

After a brief discussion concerning treatment facilities, Dr. Easterling made a motion that in the future, Dr. Craig and Dr. Hambleton should view the presentation and make a decision. If they approve the facility, then it is to be added to the Board's approved list of providers. Dr. Crawford seconded the motion and it carried unanimously.

FINAL ADOPTION OF AMENDMENT CHANGES TO TITLE 30, PART 2610, CHAPTER 2, CONCERNING CME REQUIREMENTS

After a brief discussion, motion was made by Dr. Miles, seconded by Dr. Chance, and carried unanimously of the Board's intent to final adopt the amendment to the regulation concerning CME requirements. 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.

FINAL ADOPTION OF REGULATION PERTAINING TO TITLE 30, PART 2645, CHAPTER 2, CONCERNING THE PRESERVATION AND CERTIFICATION OF ELECTRONIC RECORDS

After a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Brunson, and carried unanimously of the Board's intent to final adopt the regulation concerning the preservation and certification of electronic records. 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.

REQUEST FROM EAST MS STATE HOSPITAL CONCERNING DR. REUBEN CRUZ AND DR. PACIFICO ONGKINGCO

Dr. Craig discussed the request from East Mississippi State Hospital concerning a waiver for the Limited Licenses for the two (2) physicians at East Mississippi State Hospital and briefly discussed why they have to request a waiver each year. Dr. Craig advised that legislation was passed this year that provides the Board the ability to grant the waivers past the previous five (5) years.

Following a brief discussion, motion was made by Dr. Aycock, seconded by Dr. Crawford and passed by majority that the Board grant the waivers for Dr. Cruz and Dr. Ongkingco. Dr. Mayo and Dr. Chance voted nay to the motion.

OTHER BUSINESS

Dr. Craig advised that the Board had received a resignation letter from Consumer Health Member, Cecil Burnham. Dr. Craig requested that Board members notify him if they have recommendations for the vacant position.

Dr. Easterling advised that the Board needs to further discuss pending litigation filed against the Board before adjourning. Motion was made by Dr. Mayo, seconded by

Dr. Crawford, and carried unanimously that the Board enter into Executive Session to further discuss pending litigation against the Board. Upon returning from Executive Session, Dr. Easterling again advised that no action was taken.

ADJOURNMENT

There being no further business, the meeting adjourned at 1:50 P.M., with the next meeting scheduled for Thursday, July 18, 2013.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
May 16, 2013

RESOLUTION

WHEREAS, Ruby Anita Litton, R.N., Quitman, Mississippi, faithfully and conscientiously served the Mississippi State Board of Medical Licensure in the Investigative Division for five and a half years; and

WHEREAS, Mrs. Litton 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. Litton 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. Litton 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. Litton 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. Litton expressing to her the highest esteem of the Board.

DATED, this the sixteenth day of May, 2013.

S. Randall Easterling, M.D., President

Virginia M. Crawford, M.D., Vice President

Larry B. Aycock, M.D., Secretary

ATTEST:

H. Vann Craig, M.D.
Executive Director

Claude D. Brunson, M.D.

Rickey L. Chance, D.O.

William B. Jones, M.D.

William S. Mayo, D.O.

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

Charles D. Miles, M.D.

RESOLUTION

WHEREAS, Shirley Ann Thomas, Brandon, Mississippi, faithfully and conscientiously served the Mississippi State Board of Medical Licensure in the Investigative Division for ten years and nine months; and

WHEREAS, Ms. Thomas 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 Ms. Thomas 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 Ms. Thomas 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 Ms. Thomas 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 Ms. Thomas expressing to her the highest esteem of the Board.

DATED, this the sixteenth day of May, 2013.

S. Randall Easterling, M.D., President

Virginia M. Crawford, M.D., Vice President

Larry B. Aycock, M.D., Secretary

ATTEST:

H. Vann Craig, M.D.
Executive Director

Claude D. Brunson, M.D.

Rickey L. Chance, D.O.

William B. Jones, M.D.

William S. Mayo, D.O.

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

Charles D. Miles, M.D.

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 16, 2013

AGENDA ITEM: XII. Show Cause in the case of David Z. Levine, D.O.

In a motion made by Dr. Miles, seconded by Dr. Crawford, and carried the Board voted voted to allow Dr. Levine to proceed with his application for a medical license.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Mayo, seconded by Dr. Chance, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE APPLICATION FOR LICENSURE

OF

DAVID Z. LEVINE, D.O.

ORDER

THIS MATTER came on regularly for hearing on May 16, 2013, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. The Board initiated these proceedings on April 21, 2013, by issuance of an Order to Show Cause why the application of David Z. Levine, D.O., (hereinafter "Applicant") for a Mississippi Medical License should not be denied.

Applicant was present and represented by Thomas Kirkland. 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 S. Randall Easterling, M.D., President; William S. Mayo, D.O.; Larry B. Aycock, M.D.; Claude D. Brunson, M.D.; Rickey L. Chance, D.O.; Charles D. Miles, M.D. ; William B. Jones, M.D.; and Virginia M. Crawford, M.D.

Based upon the evidence and testimony presented, the Board finds that Applicant's request for a Mississippi Medical License should be granted.

NOW THEREFORE, IT IS ORDERED that at such time as the application of David Z. Levine, D.O., is deemed by the Board staff to be complete, he should be granted a Mississippi Medical License.

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 Applicant.

SO ORDERED, this the 16th day of May, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
MAY 16, 2013

AGENDA ITEM: XIII. Hearing in the case of James Buell Denney, M.D.

In a motion made by Dr. Mayo, seconded by Dr. Crawford, and carried the Board voted that based on evidence presented that Dr. Denney is found guilty of all VII Counts as charged and the Board hereby revokes his Mississippi medical license.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Jones, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF JAMES BUELL DENNEY, M.D.

ORDER

THIS MATTER came on regularly for hearing on May 16, 2013, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. The Board initiated these proceedings on April 8, 2013, by issuance of a Summons and Affidavit which was personally served on James Buell Denney, M.D., (hereinafter "Licensee") on April 10, 2013, setting forth a total of seven (7) counts of violations of Miss. Code Ann., §§ 73-25-29 and 73-25-83.

Licensee failed to appear and was not represented 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: S. Randall Easterling, M.D., President; William S. Mayo, D.O.; Larry B. Aycock, M.D.; Claude D. Brunson, M.D.; Rickey L. Chance, D.O.; Virginia Crawford, M.D.; Charles D. Miles, M.D.; and William B. Jones, 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

1. Licensee is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 14258. Said license is current until June 30, 2013.

2. Licensee did not file an answer to the Summons and Affidavit. By virtue of Title 30, Part 2645, Chapter 1 of the Board's *Rules of Procedure*, all matters asserted in the Summons and Affidavit have been taken as admitted. Nonetheless, Complaint Counsel introduced a number of exhibits and the Board heard the testimony of Board investigator Jonathan Dalton, all in support of the charges as set forth in the Summons and Affidavit.

3. A records check on February 25, 2013, with the U.S. Drug Enforcement Administration (DEA), Jackson, Mississippi, indicated that Licensee's Uniform Controlled Substance Registration Certificate No. BD0406046 was issued on May 19, 1986, with an expiration date of June 30, 2014, and includes prescriptive authority in Schedules IIN, IIIN, IV and V. This registration restricts Licensee from prescribing in Schedules II and III in accordance with restrictions placed on his Louisiana medical license. The records check also indicated Licensee holds Uniform Controlled Substance Registration Certificate No. FD2200943, which was issued on August 24, 2010, with an expiration date of June 30, 2013, and includes prescriptive authority in Schedules IIN, IIIN, IV and V. This registration is intended for any practice Licensee has within Mississippi and also restricts him from prescribing in Schedules II and III.

4. On December 5, 2011, Licensee entered into a voluntary consent agreement with the Louisiana State Board of Medical Examiners which placed Licensee on Probation for a period of two (2) years and also placed a number of terms, conditions and restrictions on his Louisiana medical license.

5. As a result of the December 5, 2011, Consent Agreement between Licensee and the Louisiana State Board of Medical Examiners, Licensee presented to the Board for

a hearing pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated, on July 12, 2012, based on a summons with supporting affidavit which set forth two (2) counts of violations of Miss. Code Ann., §§ 73-25-29 and 73-25-83. Based on the evidence and testimony presented, the Board found Licensee guilty of having his license, permit or certificate to practice medicine in another state or jurisdiction restricted by such licensing authority, preventing or restricting Licensee's practice in that jurisdiction, all in violation of Miss. Code Ann., § 73-25-29(9); 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). Licensee was placed on **Probation** for the same two-year period as determined by the Louisiana Consent Order dated December 5, 2011. It was further ordered that Licensee's Mississippi medical license be subjected to additional terms and conditions as enumerated within said Order.

6. Subsequent to the Order rendered by the Board, the Director of Investigations (DOI) of the Louisiana State Board of Medical Examiners initiated an investigation of Licensee's current medical practice following the receipt of a complaint by a female patient who alleged that Licensee engaged in professional sexual misconduct by examining the patient's breasts in an inappropriate manner without a chaperone. Based upon the fact that the Louisiana Board had received a similar, but unsubstantiated, complaint in the past, the Louisiana State Board of Medical Examiners issued an **Order for Evaluation of Medical Professionals** directing Licensee to submit to an inpatient evaluation at Behavioral Medicine Institute, Atlanta, Georgia (BMI) to insure that Licensee was not suffering from a psychiatric condition that could affect his ability to practice

medicine with reasonable skill and safety to patients. Licensee did not comply with the order and failed to submit for the evaluation.

7. Pursuant to La. Rev. Stat., §§ 37:1285(13), (14), (25) and (30), the Louisiana State Board of Medical Examiners concluded that emergency action was imperative to safeguard the public health, welfare and safety. As a result, the Louisiana State Board of Medical Examiners issued an **Order of Summary Suspension**, *In the matter of James Buell Denney, M.D., No. 12-I-686, La. State Board of Medical Examiners*, on September 17, 2012. Although Licensee denied the allegations and any violation of the Louisiana Medical Practice Act, in an effort to save resources and the cost of the evaluation, Licensee voluntarily entered into a consent agreement with the Louisiana Board.

8. In the resulting Superseding Consent Order For Reinstatement of Medical License, the Louisiana State Board of Medical Examiners **Reinstated** Licensee's ability to practice medicine and, thereafter, placed Licensee on **Probation for a period of two (2) years (the probationary period)**; provided however, that Licensee's license to practice medicine and his continuing exercise of the rights and privileges granted to him would be conditioned upon and subject to, in part, the following terms, conditions and restrictions:

(1) Licensee must attend and successfully complete courses in professionalism and professional boundary violations;

(2) Licensee is restricted to treating only male patients for the life of Licensee's Louisiana medical license;

(3) Licensee must obtain from the Louisiana Board written pre-approval for any intended practice setting.

9. The Order rendered by the Mississippi Board on July 12, 2012, enumerated certain terms and conditions which Licensee must conform with in order to maintain compliance with the Order and, by extension, the Board. Specifically, the order states, in part:

> *Licensee shall report immediately in writing to the Mississippi State Board of Medical Licensure should his license in any state or federal jurisdiction be subject to investigation or disciplinary action.*

Licensee failed to notify the Board as required in the aforementioned Order and, as a result, is in violation of the July 12, 2012, Order entered by the Board, placing him in violation of the Board's Administrative Code.

10. As a result of said Superseding Consent Order between Licensee and the Louisiana State Board of Medical Examiners, Licensee is in violation of the Board's Administrative Code by having restrictions placed on his license by a licensing authority of another state.

11. On August 23, 2012, Licensee was mailed a bill for investigative costs pursuant to authority granted in Miss. Code Ann., §§ 73-25-30(2) and (3). Licensee was notified, in accordance with state law, that failure to receive the full payment within 40 days could result in further disciplinary action. The bill was sent certified mail with return receipt requested. The receipt was returned as being delivered on September 4, 2012. As of the date of this affidavit, well outside of the 40 day time frame, Licensee has failed to remit payment for investigative charges relating to the investigation culminating in the July 12, 2012, Board hearing. As a result, Licensee is in violation of the Board's Administrative Code and the laws of the State of Mississippi.

CONCLUSIONS OF LAW

Licensee is guilty of Counts I and V of the April 8, 2013, Affidavit of Jonathan Dalton by virtue of Licensee violating a provision of an order, stipulation or agreement with the Board, all in violation of Miss. Code Ann., § 73-25-29(13).

Licensee is guilty of Counts II, IV and VII of the April 8, 2013, Affidavit of Jonathan Dalton by virtue of conduct deemed unprofessional, which includes, but is not limited to being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., §§ 73-25-29(8)(d) and 73-25-83(a).

Licensee is guilty of Count III of the April 8, 2013, Affidavit of Jonathan Dalton by virtue of the revocation, suspension or other restriction imposed on a license, permit or certificate issued by the licensing authority of another state or jurisdiction, which prevents or restricts Licensee's practice in that jurisdiction, all in violation of Miss. Code Ann., § 73-25-29(9).

Licensee is guilty of Count VI of the April 8, 2013, Affidavit of Jonathan Dalton by virtue of Licensee failing to pay an assessment of costs by the Board pursuant to authority granted in Miss. Code Ann., §§ 73-25-30(2) and (3), all in violation of Miss. Code Ann., § 73-25-30(4).

ORDER

IT IS THEREFORE, ORDERED that based upon the Findings of Fact and Conclusions of Law enumerated above, Mississippi Medical License No. 14258, duly issued to James Buell Denney, M.D., is hereby revoked.

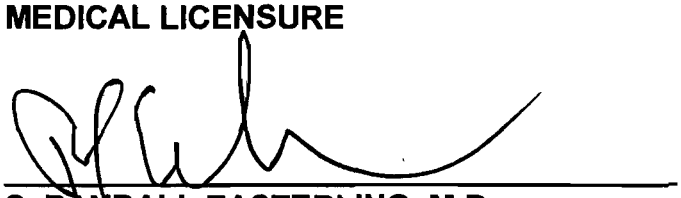
IT IS FURTHER ORDERED, that Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., § 73-25-30, with

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.

IT IS FURTHER ORDERED that pursuant to Miss. Code Ann., § 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 16th day of May, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: 

S. RANDALL EASTERLING, M.D
PRESIDENT

19761

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	5/16/13	30 Miss. Admin Code Pt. 2610, R. 2.1.		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 2.1 was modified to delete the requirement of 5 hours of prescribing CME for any physician who does not have a current DEA certificate.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	Action proposed:	Date Proposed Rule Filed: 3/26/2013
_____ Renewal of effectiveness	_____ New rule(s)	Action taken:
To be in effect in _____ days	_____ Amendment to existing rule(s)	_X_ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	Proposed final effective date:	_____ Withdrawn
	_____ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	Effective date:
		_X_ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		FILED MAY 16 2013 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	Accepted for filing by	Accepted for filing by

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

Part 2610 Chapter 2: CME Requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rule 2.9 Effective Date of Regulation. The above rules pertaining to continuing medical education shall become effective February 16, 2000.
Amended May 17, 2007; Amended January 24, 2008; Amended November 15, 2012; and Amended May 16, 2013.

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

19762

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	5/16/13	30 Miss. Admin Code Pt. 2645, Chapter 2		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Chapter 2 is being added to designate policies and practices for records management in the transition from paper-based to electronic record-keeping in order to facilitate use and admissibility of such records in Board proceedings.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed: 3/28/2013**
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	_____ Amendment to existing rule(s)	_X_ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	_____ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_X_ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

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		FILED MAY 16 2013 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	Accepted for filing by	Accepted for filing by

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

Title 30: Professions and Occupations

Part 2645 Rules of Procedure

Part 2645 Chapter 2: Preservation and Certification of Electronic Records

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

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

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

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

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

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

A. Micrographic media, including microfilm, microfiche, or any similar medium; or

B. Electronic storage media, including any digital storage.

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

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

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

Rule 2.6 Authenticating Electronic Evidence in Board Proceedings.

A. *Self-Authentication.* Evidence of authenticity is not required for admissibility in any hearing or other matter before the Board, provided the evidence is either (i) an original or (ii) an electronic reproduction of the original as maintained by the Board.

B. *Method to self-authenticate.* To be self-authenticating, the record must be accompanied by a written declaration of the designated custodian as provided herein, certifying that the electronic record (i) was made in the normal course and scope of Board business and (ii) by a person with knowledge of those matters. The proponent must show that the custodian of the records is not only familiar with the maintenance of the records, but also with how they are created.

Adopted May 16, 2013.

JULY 2013

MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 17, 2013

MEMBERS PRESENT:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, 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
Mickey Boyette, Investigator, 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, July 17, 2013, at 1:00 p.m. in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

LETTER FROM ERICA LYNN NOYES, M.D., CORINTH, MISSISSIPPI MEDICAL LICENSE NUMBER 16082

For informational purposes, Dr. Craig briefly discussed a letter that the Board had received from Dr. Erica Noyes concerning her appearance before the Executive Committee on May 15, 2013.

KARAN BATH, M.D., APPLICANT, USMLE WAIVER REQUEST GRANTED

For informational purposes, Dr. Craig briefly discussed a waiver request from Dr. Bath. Dr. Craig advised that it took Dr. Bath seven (7) years and nine (9) months to complete all steps of the USMLE which exceeds the Board's requirement of seven (7) years. Dr. Craig advised that Dr. Bath passed all steps on her first attempt with excellent scores. Dr. Craig advised that Dr. Bath did her residency in New York and that they did not require a full license nor do they have a time limit to complete all steps of the USMLE. Dr.

Craig advised that he had approved the wavier request and was requesting the Executive Committee's approval.

Motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously that the Executive Committee agreed that based on the information provided that sufficient documentation was presented allowing extenuating circumstances for a waiver to be granted.

REPORTS FROM THE EXAMINING COMMITTEE

Dr. Craig advised that three (3) physicians had been referred to the Examining Committee and that the reports had been submitted for the Board's approval and direction. Dr. Craig advised that Dr. Scott Hambleton, Medical Director, Mississippi Professionals Health Program (MPHP), was here to respond to any questions from the Board.

The Executive Committee briefly discussed each anonymous physician as Licensee #1, Licensee #2, and Licensee #3.

Licensee #1 - Following a brief discussion and information provided by Dr. Hambleton, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried that Dr. Craig write the Licensee a certified letter documenting that he had agreed to comply with the recommendation of the Examining Committee.

Licensee #2 - Dr. Craig advised that Licensee has complied with the treatment recommendations of the Examining Committee and is under a five (5) year monitoring contract with MPHP. Dr. Hambleton advised that the monitoring contract will prohibit any collaboration with mid-level providers. Motion was made by Dr. Crawford, and seconded by Dr. Aycock, and carried to accept the Examining Committee's recommendation.

Licensee #3 - Dr. Craig advised Licensee #3 just completed treatment and is under contract with MPHP for five (5) years. Due to the sensitivity, Dr. Hambleton covered the diagnosis and explained the process and why it is needed. Motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried to accept the Examining Committee's recommendation.

INVESTIGATORS DISCUSS A MATTER CONCERNING A PHYSICIAN

Board investigator Mickey Boyette discussed two (2) cases and asked for guidance in how the Board wishes to proceed.

After a brief discussion, the Executive Committee advised Mr. Boyette in case #1 to invite the physician to appear before the Board in a hearing at the September Board meeting to address prescription irregularities.

Following a brief discussion of case #2, the Executive Committee advised that the Licensee should be invited to appear before the September Executive Committee meeting to discuss supervision of a physician assistant and an APRN with whom the Licensee currently has relationships.

REVIEW OF JULY 18, 2013, BOARD AGENDA

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

ADJOURNMENT

There being no further business, the meeting adjourned at 2:35 p.m.

S. RANDALL EASTERLING, M.D.
PRESIDENT

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
July 17, 2013

BOARD

MEETING

MINUTES

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
JULY 18, 2013

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, July 18, 2013, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

S. Randall Easterling, M.D., Vicksburg, President
Larry B. Aycock, M.D., McComb, Secretary
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
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee

Not present:

Virginia M. Crawford, M.D., Hattiesburg, Vice President
William S. Mayo, D.O., Oxford
Charles Thomas, Yazoo City, Consumer Health Committee

The meeting was called to order at 9:00 a.m. by Dr. Easterling, President. The invocation was given by Dr. Easterling and the pledge was led by Dr. Miles. Dr. Easterling welcomed Paulynn Raley, Court Reporter, and extended a welcome to all visitors present at the meeting.

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

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD MAY 01, 2013, THROUGH JUNE 30, 2013

One-hundred fifteen (115) licenses were certified to other entities for the period May 01, 2013, through June 30, 2013. Motion was made by Dr. Aycock, seconded by Dr. Brunson, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD MAY 01, 2013, THROUGH JUNE 30, 2013

One-hundred twenty-eight (128) licenses were issued for the period May 01, 2013, through June 30, 2013. Motion was made by Dr. Aycock, seconded by Dr. Brunson, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED MAY 15, 2013, AND MINUTES OF THE BOARD MEETING DATED MAY 16, 2013

Minutes of the Executive Committee meeting dated May 15, 2013, and Minutes of the Board meeting dated May 16, 2013, were reviewed. Dr. Aycock moved for approval of the minutes as submitted. Dr. Brunson seconded the motion and it carried unanimously.

REPORT OF JULY 17, 2013, EXECUTIVE COMMITTEE MEETING

Dr. Craig briefly covered information discussed by the Executive Committee on July 17, 2013. Information pertaining to the Executive Committee decisions is included in the Executive Committee Minutes dated July 17, 2013.

Following a brief discussion, motion was made by Dr. Easterling that the decisions of the Executive Committee be approved with the exception of the Examining Committee's report as to Licensee #1 which will require additional discussion. The motion was seconded by Dr. Aycock, and carried.

Motion was made by Dr. Miles, seconded by Dr. Chance, that the Board enter into Executive Session to further discuss concerns he has relating to Licensee #1, and possible disciplinary action against Licensee.

Upon a motion by Dr. Miles, seconded by Dr. Chance, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that the Board had agreed to request that the Executive Director further discuss with Licensee #1 the early surrender of his DEA license and options if he does not agree.

OTHER BUSINESS

Dr. Easterling advised that the Board needed to address an issue concerning litigation against the Board. Motion was made by Dr. Brunson, seconded by Dr. Chance, and carried that the Board enter into Executive Session to discuss litigation issues against the Medical Board.

Upon a motion by Dr. Jones, seconded by Dr. Miles, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that a discussion was held concerning litigation filed concerning the Board's regulation Title 30, Part 2630, Chapter 1, Collaboration/Consultation with Nurse Practitioners, and that a motion was made and passed that the Mississippi State Board of Medical Licensure withdraw the regulation as adopted in March 2013, and revert back to the pre-March regulation.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Brunson (Chair), Dr. Easterling, Dr. Jones, Dr. Chance, Dr. Miles, Mr. Thomas

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

Professionals Health Program - Dr. Chance (Chair), Dr. Crawford, Dr. Aycock

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

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

Dr. Easterling advised that Dr. Mayo was absent, but that he had conducted a meeting earlier today with the committee and additional information will be provided later in the meeting.

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

Dr. Crawford was absent but Dr. Merideth advised that there was no new information to report.

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

Dr. Aycock advised there was no new information to report but made the statement that "all is not well" concerning the electronic medical records.

Licensure Process - Dr. Brunson (Chair), Dr. Craig, Ms. Freeman

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

ORAL HEARING CONCERNING REGULATION RELATING TO PAIN MANAGEMENT

Dr. Easterling called the Oral hearing to order and welcomed the guests. Dr. Easterling advised the format of the hearing and that each individual would be allowed the opportunity to address the Board. Dr. Easterling advised that the Board would listen to all comments and suggestions.

Dr. Easterling stated that, "We are here today to conduct an oral hearing with regard to the adoption by the Mississippi State Board of Medical Licensure of its **proposed amendments to Mississippi Administrative Code, Title 30, Part 2640, Chapter 1, Rule 1.2 & 1.15, CONCERNING THE MEDICAL PRACTICE OF PAIN MANAGEMENT.** This rule has been rewritten to address issues regarding Pain Management Medical Practices. The Notice of Proposed Rule Adoption was filed with the Secretary of State pursuant to the Administrative Procedures Act on April 08, 2013. These regulations are being adopted pursuant to the statutory authority found in Mississippi Code Title 73. The purposes of these regulations are to protect the public, to set professional standards, and to enforce the provisions of law regulating the practice of medicine in the State of Mississippi.

Each person has been provided with guidelines for the conduct of oral proceeding before the MSBML. Persons who have indicated a desire to make a presentation during this proceeding may present oral statements and/or any documentary submissions relevant to their position. The Board requests that each participant making an oral statement identify themselves and any other individuals or entities they may represent at the beginning of their presentation and give a brief statement of their position with regard to the proposed regulation. The Board requests that each individual requesting to comment during the oral proceeding, to please restrict your statements and/or comments to five (5) minutes." Before the hearing, Dr. Easterling asked if there were any questions concerning the conduct of the hearing and advised individuals wishing to make comments to come to a table facing the Board members and state their name before providing their comments.

1) Stephen Montagnet - Attorney for MS Nurses Association - addressed concerns with the Economic Impact Statement (EIS) and with the fact that the regulation pertaining to ownership is outside the scope of MSBML. They also feel the regulation is unnecessarily discriminatory and exclusive in prohibiting APRNs from owning clinics.

2) Richard Roberson - Attorney for Rush Health Systems - believes some provisions are outside the Board's authority and exceeds the scope. He also addressed concerns with ownership and how it exceeds the Board's authority. Mr. Roberson addressed concerns with the Economic Impact Statement (EIS) and the inconsistencies when comparing the information and stated the EIS lacks detailed data and methodology.

3) Marshall Fisher, Executive Director - MS Bureau of Narcotics - Thanked the Board for the efforts they are making concerning the drug issue and discussed how serious the prescription drug problem is in MS.

4) Gregory Auzeene, M.D. - Board certified anesthesiologist at Rush and is also board certified in pain management. Dr. Auzeene stated he would like to see the Board consider raising the standards for physicians wanting to practice in pain management and to get more involved in the matter.

5) Leland Lou, M.D. - partner with Dr. Auzeene - Dr. Lou suggested that the Board create a panel for input from physicians practicing in pain management. Dr. Lou also stated that diversion is the largest problem.

6) Kirk Kinard, M.D. - Thanked the Board for their actions and stated that many anesthesiologist want to be more involved in the regulations that involve them.

7) Mona Graham, Attorney with Taggart, Rimes & Graham, spoke on behalf of the MS Association of Nurse Anesthetists concerning the adverse impact of the proposed rule on CRNAs and patient's access to care.

8) Simone Sandifer, Agent, MS Bureau of Narcotics and the DEA - Ms. Sandifer works diversion related cases and often works with investigators on the Board. Ms. Sandifer applauded the Board for their regulation and spoke of the need for stern regulations in this area.

Dr. Easterling thanked all the participants and told Mr. Fisher and Ms. Sandifer that the Board appreciates how they are working with the Board of Medical Licensure and the Board of Nursing to make great strides with the drug problems.

Following a brief discussion, motion was made by Dr. Miles, seconded by Dr. Chance, and carried that the Board rescind the proposed regulation concerning pain management. At this time, Dr. Easterling discussed the new proposal from the Rules, Regulation & Legislative Committee that has many of the requested changes included. Dr. Easterling stated that the Committee has taken the suggestions and comments and drafted a new proposal for the Board's review.

After a brief discussion, motion was made by Dr. Chance, seconded by Dr. Miles, and carried that the Board proposes to adopt the newly proposed changes and that it was the Board's intent to file the new proposal with the Secretary of State under the Administrative Procedures Act. A copy of the proposed amendment is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY KAREN HOLLOWAY, M.D., MADISON, MISSISSIPPI MEDICAL LICENSE NUMBER 16327

Dr. Craig advised that Dr. Holloway had requested to appear before the Board to request that all restrictions be lifted from her medical license. Dr. Craig advised that records indicate that Dr. Holloway has met all requirements of the May 17, 2012, Board Order.

Dr. Holloway addressed the Board and was without counsel. Dr. Holloway stated that she wanted to petition the Board and request removal of all restrictions imposed on her medical license. After answering several questions from Board members and explaining the type work that she plans on performing, motion was made by Dr. Aycock, seconded by Dr. Merideth, and carried unanimously to grant her request for an unrestricted license.

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

HEARING IN THE CASE OF VICTOR JAY ZUCKERMAN, D.O., WEST MONROE, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 22261

Mr. Ingram, Complaint Counsel for the Board, addressed the Board and briefly summarized the matter concerning Dr. Zuckerman and why he had been summoned to appear today for a hearing.

Mr. Ingram asked Thomas Washington, Bureau Director of Investigations, to check the building and to see if he had signed in with the receptionist. Mr. Washington left the meeting and returned to advise that Dr. Zuckerman was not present and had not signed in at the receptionist's desk. Mr. Ingram asked Mr. Washington if Dr. Zuckerman had been informed of the meeting and Mr. Washington explained that Dr. Zuckerman was sent a certified letter and that a signed receipt showing delivery on June 17, 2013, had been returned.

Mr. Ingram called Mr. Washington to the witness stand and he was sworn in by the court reporter. Mr. Ingram entered several exhibits and questioned Mr. Washington concerning why Dr. Zuckerman had been issued the Summons and

Affidavit as well as the option of a Surrender. Mr. Ingram summarized the Summons and Affidavit as well as the actions taken by the Louisiana Medical Board. Mr. Ingram advised the Board that Dr. Zuckerman never responded to the Summons and Affidavit nor filed an answer which under the rules of procedure takes the counts as confessed. Mr. Ingram requested the Board's permission to have the hearing in absentia.

Following a brief discussion by the Board, motion was made by Dr. Merideth, seconded by Dr. Miles, and carried that based on the evidence presented today and evidence supplied by the state of Louisiana as well as evidence confessed, that Dr. Zuckerman's Mississippi medical license be indefinitely suspended. Dr. Aycock was the only Board member that opposed the motion.

A verbatim account of this proceeding was recorded by Paulynn Raley, Court Reporter.

THE BOARD RECESSED FOR BREAK AT 11:20 A.M. AND RECONVENED AT 11:30 A.M.

PERSONAL APPEARANCE BY MICHAEL SEAN ZALESKI, DPM, HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 80131

Stan Ingram, Complaint Counsel for the Board, addressed the Board and introduced Dr. Zaleski and his attorney, Chris Massenburg. Mr. Ingram advised that Dr. Zaleski's Consent Order dated March 21, 2013, provided Dr. Zaleski the opportunity to appear once his evaluation was complete to review the results with the Board.

Mr. Ingram reminded the Board that this was a personal appearance and not a hearing but that he would make a couple opening remarks and summarize the Board Order dated March 21, 2013, which is currently still in place. It was stated that the Order required Dr. Zaleski to comply with all treatment recommendations of the evaluating facility and obtain advocacy from MPHP.

Mr. Massenburg addressed the Board and summarized the Talbott evaluation taken after the Board's order and advised that they want the Board to use Palmetto's evaluation which is uncontested and recommends outpatient treatment and a two (2) year monitoring contract with MPHP.

Dr. Zaleski addressed the Board and discussed concerns and serious problems with the evaluations. Dr. Zaleski advised that he sought a second opinion at Elmhurst but that MPHP had recommended Acumen. Dr. Zaleski discussed problems that had occurred at each facility and how he felt they were inaccurate.

Following several questions from the Board, Dr. Scott Hambleton, Medical Director, MPHP, summarized both the Palmetto and Talbott evaluations. Dr. Hambleton addressed the Committee's concerns with Dr. Zaleski's honesty at Palmetto. Dr. Hambleton then summarized the Talbott evaluation and advised that MPHP feels he needs residential treatment followed by a monitoring contract. Dr. Hambleton advised that MPHP will not offer Dr. Zaleski a contract or advocate for him until he completes treatment as recommended and to date he has not done so.

Motion was made by Dr. Aycock, seconded by Dr. Merideth, and carried that the Board enter into Executive Session to consider a matter which pertains to a pending disciplinary order.

Upon a motion by Dr. Chance, seconded by Dr. Brunson, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that the Board agrees with MPHP's recommendation for Dr. Zaleski to enter an approved inpatient program and then enter into a five (5) year monitoring contract with MPHP for advocacy.

THE BOARD RECESSED FOR LUNCH AT 12:10 P.M. AND RETURNED AT 1:00 P.M.

HEARING IN THE CASE OF MICHELLE QUYNH LAI, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 20803

Dr. Craig advised that the Board had received a formal request for a Continuance until the next scheduled Board meeting. Motion was made by Dr. Merideth, seconded by Dr. Chance and carried to grant the request for a Continuance. A copy of the Order of Continuance is attached hereto and incorporated by reference.

LETTER FROM CPEP CONCERNING LEARNING SUMMIT IN DENVER, CO., NOVEMBER 7 & 8, 2013

Dr. Craig briefly discussed a letter that the Board had received from CPEP concerning a Summit that they will be holding November 7 & 8, 2013. Dr. Craig discussed the expenses that CPEP will pay to help defray costs and advised that if anyone on the Board was interested in attending, that the Board will pay their airfare.

LETTER FROM THE OFFICE OF MISSISSIPPI PHYSICIAN WORKFORCE

Dr. Craig discussed a letter that the Board had received from Dr. Beebe concerning the Board's representative on the Office of Mississippi Physician Workforce. Dr. Craig advised that Dr. Brunson served last year as the Board's representative, and

has stated that he would be willing to serve again if reappointed by the Board. Motion was made by Dr. Merideth, seconded by Dr. Miles, and carried to reappoint Dr. Brunson.

LETTER FROM JAMES J. COX, JR., D.O., RIDGELAND, MISSISSIPPI MEDICAL LICENSE NUMBER 22067

For informational purposes, Dr. Craig advised that when Dr. Cox was issued a license it was limited to practice at UMC until he provided the Board with documentation that he had been re-certified in Family Medicine. Dr. Craig advised that the Board had received Dr. Cox's recertification and that he was requesting an unrestricted license.

Motion was made by Dr. Merideth, seconded by Dr. Aycock, and carried to grant Dr. Cox an unrestricted license to practice medicine in the state of Mississippi.

PROPOSED REGULATION CONCERNING LIMITED X-RAY MACHINE OPERATOR

Dr. Craig briefly discussed the proposed regulation concerning limited x-ray machine operators and that legislation was passed this year that provided the specifics for the regulation.

Following a brief discussion, motion was made by Dr. Miles, seconded by Dr. Merideth, and carried of the Board's intent to adopt the proposed regulation concerning limited x-ray machine operators. 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.

HEARING IN THE CASE OF MATHEW CARY WALLACK, M.D., BILOXI, MISSISSIPPI MEDICAL LICENSE NUMBER 18379

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Wallack and his attorney, Doug Mercier.

Mr. Ingram addressed the Board and briefly summarized the counts listed in the Summons and Affidavit and the reason that we were having the hearing today.

Mr. Mercier addressed the Board and discussed a Motion for Recusal that he had filed and explained their reasoning due to a lawsuit that Dr. Wallack has filed against Biloxi Regional Medical Center, and the fact that a Board member has connection with the same facility. Following a brief discussion, Dr. Chance was questioned by both attorneys, several Board members, and Ms. O'Neal. Dr. Easterling stated that since none of the Board members thought that Dr. Chance should rescue

himself that the motion is denied.

Mr. Ingram addressed the Board and made his opening statement and entered several exhibits into the record.

Mr. Mercier addressed the Board and made his opening statement and entered numerous exhibits into the record. Mr. Mercier discussed several areas where he and Board counsel differed and asked the Board to dismiss the charges against Dr. Wallack and reinstate his medical license.

Mr. Ingram called Dr. Wallack as an adverse witness. Dr. Wallack took the stand and was sworn in by the court reporter. Both Mr. Ingram and Mr. Mercier questioned Dr. Wallack prior to responding to questions by Board members. Dr. Easterling thanked Dr. Wallack as he exited the witness stand.

Mr. Ingram called Thomas Washington, Bureau Director, Investigative Division, and he was sworn in by the court reporter. Both Mr. Ingram and Mr. Mercier questioned Mr. Washington prior to being questioned by Board members.

Mr. Ingram called Scott Hambleton, M.D., Medical Director, Mississippi Professionals Health Program (MPHP) and he was sworn in by the court reporter. Mr. Ingram qualified Dr. Hambleton as an expert witness in addiction medicine. Dr. Hambleton responded to questions from both Mr. Ingram and Mr. Mercier before responding to questions from the Board.

THE BOARD RECESSED AT 7:15 P.M. FOR DINNER AND RECONVENED AT 7:45 P.M.

MR. BRELAND EXITED THE MEETING AT 7:45 P.M.

Mr. Ingram advised that he had no further witnesses.

Mr. Mercier called character witness Beverly Slade of Gulfport, MS, to the witness stand. Ms. Slade was sworn in by the court reporter prior to answering questions from Mr. Mercier. Ms. Slade spoke of how Dr. Wallack has helped her back problems. Mr. Ingram questioned Ms. Slade prior to Dr. Easterling thanking her for coming as she exited the witness stand.

Mr. Mercier called character witness Rev John Wayne McMannis of D'Iberville, MS, to the witness stand. Rev. McMannis was sworn in by the court reporter prior to answering questions from Mr. Mercier. Rev. McMannis spoke of how Dr. Wallack has helped him since he was in a bad accident several years ago. Mr. Ingram questioned

Rev. McMannis prior to Dr. Easterling thanking him for coming as he exited the witness stand.

Mr. Mercier called character witness Chad Presto Herbert of Biloxi, MS, to the witness stand and he was sworn in by the court reporter. Mr. Herbert lives across the street from Dr. Wallack. Mr. Mercier questioned Mr. Herbert but there were no questions from Mr. Ingram or the Board members. Dr. Easterling thanked Mr. Herbert for coming as he exited the witness stand.

Mr. Mercier called Roy Lubit, M.D., as an expert witness from New York and he was sworn in by the court reporter. After being tendered as an expert witness, Dr. Lubit covered a PowerPoint presentation that he had prepared. Mr. Mercier questioned Dr. Lubit followed by Mr. Ingram's questioning. Several of the Board members asked questions prior to Dr. Easterling thanking him for appearing today.

Mr. Mercier called Diana Wallack, wife of Dr. Wallack, to the witness stand and she was sworn in by the court reporter. Mrs. Wallack was questioned by Mr. Mercier, Mr. Ingram, and several of the Board members before Dr. Easterling thanked her as she exited the witness stand.

Mr. Mercier had a video interview that was conducted and played for the Board members from Dr. Wallack's psychiatrist, Dr. Timothy Brown. Mr. Mercier, Mr. Ingram and Mr. Washington were present at the taping of the video and Dr. Brown responded to questions from Mr. Mercier and Mr. Ingram.

Motion was made by Dr. Merideth, seconded by Dr. Miles, and carried that the Board enter into Executive Session to discuss a licensure matter which could result in the issuance of an appealable order by the Board.

Upon a motion by Dr. Miles, seconded by Dr. Brunson, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock provided a general summary of the Findings of Fact and Conclusions of Law, as well as stating that the Board finds Dr. Wallack guilty of Counts I & II of the Summons and Affidavit. The Board voted that Dr. Wallack's license remains suspended and in order for him to petition MSBML for reinstatement he must enter treatment as requested and obtain advocacy from MPHP. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Paulynn Raley, Court Reporter.

OTHER BUSINESS

Dr. Easterling requested that Dr. Craig poll the Board members for availability for the September Board meeting. Once a date has been determined, the date will be posted on the Board's website and sent to all Board members.

ADJOURNMENT

There being no further business, the meeting adjourned at 1:55 a.m., Friday, July 19, 2013.

S. RANDALL EASTERLING, M.D.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
July 18, 2013

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
July 18, 2013

AGENDA ITEM: Discuss litigation issues against the Board concerning regulation relating to Collaboration/Consultation with Nurse Practitioners.

In a motion made by Dr. Miles, seconded by Dr. Jones, and carried the Board voted and passed a motion that the MSBML withdraw the newly adopted rules concerning physicians in collaborative agreements and to revert back to the rule as it existed prior to the March 26, 2013, amendments.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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.

S. Randall Easterling, M.D.
President

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	07/18/13	30 Miss. Admin Code Pt. 2630, R.1		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: In accordance with Miss. Code Ann. §25-43-3.113(2)(b)(1), the Board of Medical Licensure hereby amends its rule regarding the collaboration of physicians with advanced practice registered nurses (APRNs), pursuant to the order of the Chancery Court of Hinds County, Mississippi, suspending the amendments filed on March 26, 2013, such that the rule as it existed prior to the March 26, 2013 amendment is immediately in force and in effect.

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

List all rules repealed, amended, or suspended by the proposed rule: 30 Miss. Admin Code Pt. 2630, R.1

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	**Action proposed:**	**Date Proposed Rule Filed:** _____
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	_____ Amendment to existing rule(s)	__X__ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	_____ 30 days after filing	__X__ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_____ 30 days after filing
		__X__ Other (specify): immediately

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

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**	**Accepted for filing by**

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

IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

MISSISSIPPI ASSOCIATION OF NURSE ANESTHETISTS, INC. AND GOLDEN TRIANGLE PLANNING AND DEVELOPMENT, INC.	**PLAINTIFFS**
V.	**NO. G2013-565-T**
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE	**DEFENDANT**
AND	
MISSISSIPPI NURSES ASSOCIATION, INC.	**PLAINTIFF**
V.	**NO. 62013-570-W**
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE	**DEFENDANT**
AND	
MISSISSIPPI HOSPITAL ASSOCIATION AND JOHN DOES 1 THROUGH 3	**PLAINTIFF**
V.	**NO. G2013-777 O/3**
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE	**DEFENDANT**

SCHEDULING ORDER

This matter came before the Court on joint request of the parties for a hearing date, and related deadlines and accordingly, it is ordered:

1. This matter is set for hearing on September 18, 2013 commencing at 9:00 a.m.;
2. All motions to be heard shall be filed and served on or before August 20, 2013;
3. Responses to motions shall be filed and served on or before September 3, 2013;
4. Replies in support of motions shall be filed and served on or before September 10, 2013; and

5. That the implementation of the Amended Rules Pertaining to Advance Practice Registered Nurses and the April 25, 2013, effective date of same shall be and remain suspended and shall not be implemented before, this Court issues an order deciding all motions and matters to be heard on September 18, 2013, such that advanced practice registered nurses and collaborating physicians need not comply with the Amended Rules, and shall continue under the pre-amended rules until seven (7) days following the date that the Court issues an order deciding all motions and matters to be heard on September 18, 2013.

SO ORDERED, this the 15th day of July, 2013.

CHANCELLOR

AGREED:

MISSISSIPPI ASSOCIATION OF NURSE ANESTHETISTS, INC., Plaintiff

BY: _____
Jeffrey B. Rimes, (MSB #100017)
One of its attorneys

MISSISSIPPI NURSES ASSOCIATION, INC., Plaintiff

BY: _____
O. Stephen Montagnet, III (MSB #10049)
Its Attorney

MISSISSIPPI HOSPITAL ASSOCIATION, Plaintiff

BY: _____
Eugene R. Naylor (MSB # 3757)
One of Its Attorney

One of Its Attorney

GOLDEN TRIANGLE PLANNING AND DEVELOPMENT DISTRICT, INC., Plaintiff

BY: Tommie Cardin

Tommie S. Cardin (MSB #5863)
One of Its Attorney

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE, Defendant

BY: _____

Malissa Wilson Winfield, (MSB# 100751)
One of Its Attorneys

GOLDEN TRIANGLE PLANNING AND DEVELOPMENT DISTRICT, INC., Plaintiff

BY:_____
Tommie S. Cardin (MSB #5863)
One of Its Attorney

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE, Defendant

BY:_____
Marissa Wilson Winfield, (MSB# 100751)
One of Its Attorneys

30 Miss. Admin. Code, Part 2630 - Collaborations with Nurse Practitioners REPEAL effective July 18, 2013

Title 30: Professions and Occupations

Part 2630 Collaboration

Part 2630 Chapter 1: Collaboration with Nurse Practitioners

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi.

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

Rule 1.2 Definitions. For the purpose of Part 2630, Chapter 1 only, the following terms have the meanings indicated:

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

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

Rule 1.3 Board Review. Physicians who wish to collaborate/consult with a nurse practitioner who plans or anticipates practicing in a free standing clinic, must first (a) appear personally or by telephone before the Mississippi State Board of Medical Licensure and/or the Joint Committee of the Board of Medical Licensure and the Board of Nursing if the Board of Medical Licensure determines that the collaborative/consultative relationship may not be approved absent action from the Joint Committee, (b) present and discuss the protocol, and (c) obtain approval from the Board to act as a collaborating/consulting physician. The facts and matters to be considered by the Board shall include, but are not limited to, how the collaborating/consulting physician and

nurse practitioner plan to implement the protocol, the method and manner of collaboration, consultation, and referral.

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

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

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

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

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

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

Rule 1.4 Violation of Rules. Any violation of the rules as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 1.5 Effective Date of Regulation. The above rules pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009.

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

Title 30: Professions and Occupations

Part 2630 Collaboration/Consultation

Part 2630 Chapter 1: Collaboration/Consultation with Nurse Practitioners

~~*Rule 1.1 Scope.* These rules apply to all individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi. Because discipline may be imposed for failure to meet the standard of practice in connection with collaborative agreement with any advanced practice registered nurse (APRN), the Board of Medical Licensure has determined that it is reasonable, necessary and in the public interest to adopt the following rules detailing what it considers to be the standard of practice. These rules are to inform and educate physicians in collaborative relationships as to what the Board of Medical Licensure considers to be the responsibilities of such physicians. These rules intend to be practical and flexible enough to address a variety of situations and specialties. The Board of Medical Licensure does not intend to restrict patient access to essential healthcare in the state of Mississippi.~~

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

~~*Rule 1.2 Definitions.* For the purpose of Part 2630, Chapter 1 only, the following terms have the meanings indicated:~~

~~A. "Advanced Practice Registered Nurse (APRN)" is a person who is licensed or holds the privilege to practice under Miss. Code Ann. Section 73-15-5, and who is nationally certified as an advanced practice registered nurse or in a specialized nursing practice which includes certified nurse midwives (CNM), certified nurse anesthetists (CRNA), clinical nurse specialists (CNS) and certified nurse practitioners (CNP).~~

~~B. "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.~~

~~C. "Primary Collaborating Physician" means a physician who, pursuant to a duly executed protocol, has agreed to adhere to the responsibilities implied by the collaborative agreement with an APRN as outlined in 73-43-11. This responsibility includes, but is not limited to, adherence to the Quality Assurance Program set out in these rules.~~

~~D. "Secondary Collaborating Physician" ("Back-up Physician") is a physician who, pursuant to a duly executed collaborative agreement, agrees to perform the duties of the primary collaborating physician, including adherence to these rules, when the primary collaborating physician is unavailable. The classification secondary physician may also be applied when the physician is collaborating with a nurse practitioner who is working 20 hours or less a week for a clinic but has a full-time~~

primary physician in collaboration at another site. When the secondary collaborating physician is acting as the primary all of the following rules apply.

E. "Collaborative Agreement" means a written agreement between a physician, either primary or secondary as defined above, and an APRN. The collaborative agreement must be individualized to the specific collaborative practice.

F. "Acute Care Facility" means a hospital facility in which patients with acute medical conditions (e.g. cardiac, pulmonary, stroke, acute psychiatric hospitals, etc.) are being cared for by APRNs.

G. "Board" means the Mississippi State Board of Medical Licensure.

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

Rule 1.3 Requirements for Collaborating Physicians. Primary and secondary collaborating physicians must:

A. hold a current unrestricted license in the state of Mississippi and actively provide direct patient care at least eight (8) hours weekly;

B. notify the Board within seven (7) working days of entering into or termination of any collaborative agreement;

C. insure that the primary collaborative physician(s) name(s) is/are displayed for public view at the APRN's practice site; and

D. enter into a collaborative agreement with the APRN, which is written, signed and dated by both the APRN and physician, and which must:

1. remain in the practice site of the collaborating physician should there be a site visit by the Board;
2. define the scope of practice, including mutually agreed upon collaborative agreements and guidelines for the healthcare provided;
3. agree upon medication formulary to be used by APRN and physician in practice. The collaborative physician has the right to use the Mississippi Prescription Monitoring Program to review the APRN's controlled substance prescribing practices;
4. describe the individual and shared responsibilities of the APRN and physician;
5. be reviewed and updated annually by the physician and the APRN; and
6. set out a procedure for handling patient emergencies, unexpected outcomes or other urgent practice situations.

A physician shall not enter into a collaborative agreement with an APRN whose training and practice is not compatible with that of the physician (it is recognized and accepted practice that surgeons, obstetricians and dentists have collaborative arrangements with CRNAs). It is recognized that CRNAs commonly work in the anesthesia care team model where one anesthesiologist may be collaborating with up to four CRNAs concurrently. In the model, a group of anesthesiologists may collaborate with a group of CRNAs. In this instance, it is acceptable to list multiple collaborators on the CRNA's protocol. If the usual practice is for one anesthesiologist to collaborate with more than four CRNAs concurrently, then a waiver must be requested and approved by the Board. Any other arrangement must adhere to the standard rules of collaboration that exists for an APRN. Unless otherwise waved, this rule applies to hospital settings and surgical suites only. This same model shall also apply to emergency medicine group

~~practices.~~

~~The collaborative agreement shall not include medications the physician does not use in his or her current practice and about which the physician is not knowledgeable and competent.~~

~~Before entering into a collaborative agreement, a physician should consider the following when determining the degree of autonomy the agreement provides:~~

- ~~A. the physician's personal knowledge and ability to provide the time to the collaborative agreement;~~
- ~~B. the type of practice;~~
- ~~C. the scope of practice of the APRN;~~
- ~~D. the educational training and experience of the APRN;~~
- ~~E. the geographic location of the physician's practice and the practice of the APRN and their ability to consult in a manner that assures patient safety; and~~
- ~~F. the technology available to the physician and APRN to allow effective communication and consultation.~~

~~Physicians are prohibited from entering into a collaborative agreement with an APRN whose practice location is greater than forty (40) miles from the physician's practice site, unless a waiver is expressly granted by the Board for that particular collaborative agreement. However, a collaborative physician (primary or secondary) must be within 40 miles from the actively practicing APRN. Collaborative agreements which have previously been granted as waivers at the time of adoption of these rules will continue to be exempt from this requirement.~~

~~Anytime a collaborating physician is working with an APRN who is working in and/or staffing an emergency room the collaborative physician (primary or secondary) must be physically present in the building or no more than ten (10) minutes from the facility. An exception to this policy would be Board approved telemanagement arrangements.~~

~~Anytime a collaborating physician is working with an APRN who is working in and/or providing care in an acute care facility, there must be evidence reflected in the patient's chart that a collaborative physician has seen and examined the patient within twelve (12) hours of the APRN initially seeing the patient on admission.~~

~~Physicians are prohibited from entering into primary collaborative agreements with more than four (4) APRN's at any one time unless a waiver is expressly granted by the Board for that particular collaborative agreement. However, a physician may be in collaboration as the secondary physician on four (4) additional collaborative agreements and no QA, as defined under Rule 1.4, will be required for these additional APRNs. A secondary physician status may be given to a physician who is collaborating with up to two (2) APRNs who are working less than 20 hours per week at another clinic not in the same practice as the APRN's primary place of work. A QA review will be required quarterly.~~

~~The Board will consider the factors listed above, as well as any other factors that the Board deems relevant, in determining whether to grant a waiver. Such waivers may be granted to medical practices with multiple physicians including, but not limited to, the following settings:~~

A. emergency rooms;
B. intensive care units;
C. labor epidural services on obstetrical suites
D. State Department of Health;
E. State Department of Mental Health;
F. federally funded health systems (e.g. FQHCs, VAMCs); and
G. community mental health centers.

Physicians shall complete a questionnaire pertaining to APRNs upon initial licensure and during each annual renewal process.

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

Rule 1.4 Quality Assurance Program. Physicians entering into collaborative agreements shall implement a quality assurance program which shall include:

A. Review by the primary collaborating physician of a random sample of charts that represent 10% or 20 charts, whichever is less, of patients seen by the APRN every month. Charts should represent the variety of patient types seen by the nurse practitioner. Each patient encounter that the nurse practitioner and collaborating physician have consulted on during the month will count as one chart review.
B. Review of the controlled medications prescribed by the APRN revealed in the chart review. The physician may also make review through the Board of Pharmacy Prescription Monitoring Program.
C. The primary collaborating physician shall meet face to face with the APRN once per quarter for the purpose of quality assurance and this meeting should be documented.
D. Secondary physicians for APRNs who work less than 20 hours per week at a clinic shall meet face to face with the APRN once per quarter for the purpose of quality assurance and this meeting should be documented.
E. The collaborating physician must insure that the APRN maintains a log of charts reviewed, including:
    1. the identifier for the patients' charts;
    2. reviewers' names; and
    3. dates of review.

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

Rule 1.5 Disability of Primary Collaborating Physician. In the event of death, disability (physical/mental) or unanticipated relocation of a primary collaborating physician, the secondary collaborating physician shall act as the primary collaborating physician. In the event the APRN has no secondary collaborating physician, the APRN must notify the Mississippi Board of Nursing, which will then immediately notify the Board. In such cases, the APRN may continue to practice for a 90 day grace period while the APRN attempts to secure a primary collaborating physician without such practice being considered the practice of medicine. The Board or its designee, will serve as the APRN's primary collaborating physician with the approval of the Mississippi Board of Nursing. The Board and the Mississippi State Board of Nursing will assist the APRN in their attempt to secure a primary collaborating physician. If a primary

collaborating 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 Board of Nursing and the Executive Committee of the Board. 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 Board is agreed upon. The Quality Assurance process that was in place will be continued by the Board of Medical Licensure during the extension.

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

Rule 1.6 Violation of Rules. Any violation of the rules as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

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

Rule 1.7 Effective Date of Regulation. The above rules pertaining to collaborating physicians shall become effective September 21, 1991.

Amended May 19, 2005. Amended March 13, 2009. Amended November 19, 2009. Amended March 21, 2013.

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

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	07/22/13	Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: The Board is withdrawing this proposed rule. The original proposal was filed April 8, 2013, and was assigned system # 19465.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	Action proposed:	Date Proposed Rule Filed: 04/08/2013
_____ Renewal of effectiveness	_____ New rule(s)	Action taken:
To be in effect in _____ days	_____ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	Proposed final effective date:	__X__ Withdrawn
	_____ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	Effective date:
		_____ 30 days after filing
		__X__ Other (specify): immediately

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

Signature of person authorized to file rules: Rhonda Freeman

DO NOT WRITE BELOW THIS LINE

OFFICIAL FILING STAMP	OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		FILED JUL 22 2013 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	Accepted for filing by	Accepted for filing by

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

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.
G. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within

Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter

packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts
A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.

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

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

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

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

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

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

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

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

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

As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, order, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of

weight reduction based on caloric restriction, provided the physician complies with the following and that all of the following conditions are met:

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of $\geq$ 30.0 in a normal otherwise healthy patient, or a BMI $\geq$ 27.0 in an individual with at least one associated co-morbidity, or current body weight $\geq$ 120 percent of a well documented, long standin g healthy weight that the patient maintained after the age of 18, or body fat 30% in females, or body fat $\geq$ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.

D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.

E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation

once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.

F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.

G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-

approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

F. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other

drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or

continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.

F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

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

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

2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will

be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.

3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances

prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

   Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

G. A prescription shall no longer be valid after the occurrence of any one of the following events:
   1. Thirty (30) days after the death of the issuing physician.
   2. Thirty (30) days after the issuing physician has moved or otherwise changed the location of his or her practice so as to terminate the doctor/patient relationship. Termination of the doctor/patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing physician.

3. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
4. Immediately after revocation, suspension or surrender of the physician's license.

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

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

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

Rule 1.14 Security of Controlled Substances. In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are

maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Clinics.

A. Definitions. For the purpose of Part 2640, Rule 1.14 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Clinic" is defined as a public or privately owned facility that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) that treat pain as a result of terminal illness.

B. The physician owner/operator of the pain management clinic must possess and maintain a majority ownership (more than 50%) of the pain management clinic and shall register the clinic with the Board. A hospital owned pain management clinic is exempt from the majority ownership requirement; however, the hospital must employ a physician or medical director who meets the requirements set forth below. 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.

C. Application for Initial Registration and Renewal. The physician owner/operator of the pain clinic must:

1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
4. report any changes of information provided in the application for registration or renewal within 30 days.

D. Physician owner/operator may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

E. Physician owner/operator 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 that is not designated as limited retired, temporary, or in-training;
3. is on site in the clinic at all times when patients are being seen; and
4. holds a certificate of registration for that pain management clinic.

F. In addition, the physician owner/operator of a pain management clinic, an employee of the clinic or a person with whom the physician owner/operator of a clinic contracts for services may not:
1. have been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
2. have held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted; ~~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; or
4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. A physician owner/operator shall not employ 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 offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Clinics. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management clinics registered by the Board must meet one (1) of the following qualifications:

1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, or psychiatry and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management. Upon completion of the 100 hours of CME, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain clinic must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on each patient visit from the MPMP for every patient receiving controlled substances in a registered pain management clinic.

J. Requirements for Physician Assistants Practicing in Pain Management Clinics. Physician assistants must meet the following qualifications prior to practicing in a registered pain management clinic:

1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
2. Physician assistants with approved prescriptive authority must obtain 25 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain clinic;
3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain clinic. Notwithstanding, this does not prohibit a MPHP participant from working in a pain clinic.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner/operator must reapply for an original certificate. The physician owner/operator of the clinic shall post the certificate in a conspicuous location so as to be clearly visible to patients. The clinic may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practic. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.

B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.

D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.

F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.

~~G. "Pain Management Clinic" means a public or privately owned facility for which the majority (50% or more) of the patients are issued, on a monthly basis, a prescription for opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol.~~

H. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts

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

The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these rules shall be maintained in the office of the physician for a period of seven (7) years from the date that the record is completed or the controlled substances, legend drugs or other medications are prescribed, administered or dispensed and shall be made available for inspection by representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.

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

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

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

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

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

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

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

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

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of$\geq$ 30.0 in a normal otherwise healthy patient, or a BMI $\geq$ 27.0 in an individual with at least one associated co-morbidity, or current body weight $\geq$ 120 percent of a well documented, long standin g healthy weight that the patient maintained after the age of 18, or body fat 30% in females, or body fat $\geq$ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.
D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.
E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.
F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.
G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

G. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being

overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to

increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than

one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.

B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:
    1. The prescription order shall contain the date, time, telephone number and location of the transmitting device. Prescription blanks utilized in this manner shall bear a pre-printed heading that indicates the blank is a "Fax Prescription Form." Fax prescription orders must contain a manual or authenticated electronic/digital signature of the prescriber. As to Schedule II drugs, only Schedule II narcotic substances that are to be prepared or compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intra spinal infusion may be transmitted by the physician or the physician's agent to a pharmacy of the patient's choice by facsimile. All original hardcopy faxed prescriptions shall immediately be voided after successfully completing the fax transmission by writing across the face of the prescription from corner to corner the notation "faxed." The original prescription (or copy) shall be retained in the physician's patient file with additional information included on the back of the prescription as to the date it was faxed, the name or initials of the person faxing the prescription and the name/location of the pharmacy receiving the fax transmission.

       It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is

established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.

2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and

telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.

C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

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

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

Rule 1.13 Other Drugs Having Addiction-forming Liability. All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Part 2640, Rule 1.4 when administering or dispensing the drug Nalbuphine Hydrochloride (Nubain) or its generic equivalent. The inventory and dispensation/administration records for

said drug may be maintained separately or included as a part of the physician's controlled substance records.

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

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

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Clinics.

A. Definitions. For the purpose of Part 2640, Rule 1.14 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Clinic" is defined as a public or privately owned facility that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) that treat pain as a result of terminal illness.

B. The physician owner/operator of the pain management clinic ~~shall register with MSBML~~must possess and maintain a majority ownership (more than 50%) of the pain management clinic and shall register the clinic with the Board. A hospital owned pain

management clinic is exempt from the majority ownership requirement; however, the hospital must employ a physician or medical director who meets the requirements set forth below. ~~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.

C. Application for Initial Registration and Renewal. The physician owner/operator of the pain clinic must:
   1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
   2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
   3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
   4. report any changes of information provided in the application for registration or renewal within 30 days.

D. ~~A pain management clinic~~ Physician owner/operator may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

E. ~~A pain management clinic~~ Physician owner/operator 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 that is not designated as limited retired, temporary, or in-training;
   3. is on site in the clinic at all times when patients are being seen; and
   4. holds a certificate of registration for that pain management clinic.

F. In addition, the physician owner/operator of a pain management clinic, an employee of the clinic or a person with whom the physician owner/operator of a clinic contracts for services may not:
   1. have been denied, by any jurisdiction, a ~~license~~certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
   2. have held a ~~license~~certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted; ~~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~~.~~; or
   4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. A ~~pain management clinic may not be owned wholly or partly by~~physician owner/operator shall not employ 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 offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Clinics. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management clinics registered by the Board must meet one (1) of the following qualifications:
   1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
   2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
   3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
   4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, neurosurgery, or psychiatry and approved by the ACGME or the AOA; or
   5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management. Upon completion of the 100 hours of CME, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain clinic must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on each patient visit from the MPMP for every patient receiving controlled substances in a registered pain management clinic.

J. Requirements for Physician Assistants Practicing in Pain Management Clinics. Physician assistants must meet the following qualifications prior to practicing in a registered pain management clinic:
   1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
   2. Physician assistants with approved prescriptive authority must obtain 25 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain clinic;
   3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and

4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain clinic. Notwithstanding, this does not prohibit a MPHP participant from working in a pain clinic.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner/operator must reapply for an original certificate. The physician owner/operator of the clinic shall post the certificate in a conspicuous location so as to be clearly visible to patients. The clinic may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practice ~~clinic~~. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	7/24/13	Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 1.2 and 1.15 was modified to define owner(s)/operator(s) in pain management practices and to include rules for those operating the practice.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed:** _____
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	__X__ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	__X__ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_____ 30 days after filing
		_____ Other (specify): _____

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

Signature of person authorized to file rules: Rhonda Freeman

DO NOT WRITE BELOW THIS LINE

OFFICIAL FILING STAMP	OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
	FILED JUL 24 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	Accepted for filing by	Accepted for filing by

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

DELBERT HOSEMANN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		601-987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit: The citizens of the state of Mississippi will be protected from pain management practices and practitioners that are operating in this state for profit only. The physicians will have rules and better guidelines that will assist them in their treatment of long term and chronic pain.

2. Briefly describe the need for the proposed rule: Mississippi has few regulations in the field of pain management medicine, it has opened the door for every physician, nurse practitioner and franchised medical practice to be able to practice pain management without expertise, treatment guidelines, oversight and/or ongoing training in the treatment of pain. This type of open door policy can invite scams, unethical medical practices, as well as, exploitation of patients who are desperate to manage their pain. The proposed rules will ensure that patients are not just receiving excessive amounts of controlled substance to treat pain or divert for personal illegal purposes.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare: Mississippi is currently at a risk for patient exploitation by unethical, untrained physicians, gimmicky quick fix solutions, and medical pain management franchised clinics offering shady pain management practices. Owner(s)/operator(s) will have to adhere to significantly higher standards and regulations in order to elevate the management of the pain medicine profession and collectively give credence to medically accepted practices for managing and treating pain.

4. Estimated Cost of implementing proposed action:
   a. To the agency
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:
   c. Cost:
   ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   d. Economic Benefit:
   ☐ Nothing ☐ Minimal ☐ Moderate ☒ Substantial ☐ Excessive

6. Estimated impact on small businesses:
   ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

   a. Estimate of the number of small businesses subject to the proposed regulation: unknown
   b. Projected costs for small businesses to comply: unknown
   c. Statement of probable effect on impacted small businesses: The proposed actions require majority ownership by Mississippi licensed physicians.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☒ the same as ☐ minimally more than ☐ moderately more than
   ☐ substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
   ☐ substantially less than ☐ moderately less than ☐ minimally less than
   ☐ the same as ☐ minimally more than ☐ moderately more than
   ☒ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
   ☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form.
   The data utilized to address the proposed regulatory changes consist of the current records in possession of the Board, including applications and registrations for existing pain management practices in the state of Mississippi. The methodology consisted of a comparative study of the existing applications with those entities which would now be exempt.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided? In writing to the following address:

   Mississippi State Board of Medical Licensure
   Attn: Vann Craig, M.D.
   1867 Crane Ridge Drive Suite 200-B
   Jackson MS 39216

SIGNATURE	TITLE
Rhonda Freeman	Bureau Director
DATE 7/24/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing

DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Agency is encouraged to use as much space as will adequately answer all questions. A PDF version of this executed Form must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	Part 2640 Chapter 1:Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		
Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:		
73-43-11	N/A		

1. **Describe the need for the proposed action**: Amendment to the existing regulations, Part 2640, Rule 1.2 and 1.15, is necessary to clarify the scope of ownership and operation of pain management practices in the state of Mississippi, and thereby protecting the public.

2. **Describe the benefits which will likely accrue as the result of the proposed action**: To ensure that only physicians holding unrestricted licenses to practice medicine in the state of Mississippi are primarily responsible for the operation of pain management practices and the prescription, dispensation and administration of narcotics and other controlled substances.

3. **Describe the effect the proposed action will have on public health safety and welfare**: By virtue of the regulation as amended, there will be greater physician oversight and accountability of narcotics and other controlled substances prescribed, dispensed or administered to patients for pain management. Enforcement of the regulation as amended will (1) ensure that narcotics and other controlled substances are only prescribed, dispensed and administered to those with legitimate medical need, (2) reduce the possibility of injury or death due to overdose, and (3) prevent diversion of narcotics and other controlled substances into the illicit market.

4. **Estimate the cost to the agency and to other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues**: The proposed regulation as amended merely strengthens the existing regulations. Therefore, there will be no additional costs, i.e. employment of additional investigators, etc, as a result of implementation of the proposed regulatory changes.

5. **Estimate the cost or economic benefit to all persons directly affected by the proposed action**: There are currently 43 active and registered pain management practices in the state of Mississippi. Except where owned and/or operated by a licensed hospital, majority ownership in each practice must be held by a physician holding an unrestricted license in the state of Mississippi. The proposed amendments, therefore, will not have any greater economic impact than the regulation as currently enforced. The purpose of the regulation is to clarify that the physician owner(s)/operator(s) of the pain practice must register rather than the practice itself.

6. **Provide an analysis of the impact of the proposed rule on small business**:

   a. **Identify and estimate the number of small businesses subject to the proposed regulation:**

      It is estimated that there are 43 active and registered pain management practices currently operating in the state of Mississippi. Most, if not all, would be deemed small businesses.

   b. **Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record:**

      The Mississippi State Board of Medical Licensure currently employs one individual whose part time responsibility is to maintain records regarding the registration and renewal of pain management practices by physician owner(s)/operator(s). The proposed amendments place no greater responsibility on this particular staff member than already exists. Therefore, no additional costs are being incurred.

   c. **State the probable effect on impacted small businesses**:

      Because the proposed regulatory changes will not impose any greater burden on the physician owner(s)/operator(s) of pain management practices, it is anticipated there will be no economic impact on existing practices (small businesses).

   d. **Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis:**

i. **The establishment of less stringent compliance or reporting requirements for small businesses;**

No less intrusive or less costly methods are available

ii. **The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;**

No less stringent schedules/deadlines or reporting requirements are available

iii. **The consolidation or simplification of compliance or reporting requirements for small businesses;**

No consolidation, simplification of compliance or reporting requirements are available

iv. **The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation;** and

No less intrusive or less costly methods are available

v. **The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations:**

The regulations as amended exempt practices which prescribe controlled substances to treat pain as a result of terminal illness. Further, other entities, some of which would be deemed small businesses, which are exempt from the regulations as amended, include hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services and outpatient surgical clinics.

7. **Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule**: By adopting the proposed amendments to Rule 1.2 and 1.15 for pain management practices, thereby exempting from the registration requirements there from, licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, outpatient surgical clinics and physician/clinic practices which treat pain as a result of terminal illness, such entities will no longer have to register thus reducing probable costs and benefits.

8. **Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law**: There are no less costly methods or less intrusive methods to address.

9. **Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency**: No reasonable alternative methods were available or considered.

10. **State reasons for rejecting alternative methods that were described in #9 above**: Not applicable.

11. **Provide a detailed statement of the data and methodology used in making estimates required by this subsection**: The data utilized to address the proposed regulatory changes consist of the current records in possession of the Board, including applications and registrations for existing pain management practices in the state of Mississippi. The methodology consisted of a comparative study of the existing applications with those entities which would now be exempt.

SIGNATURE Sharda Freeman	TITLE Bureau Director
DATE 07/24/2013	PROPOSED EFFECTIVE DATE OF RULE 30 Days from final file

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.
G. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within

Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter

packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts
A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.

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

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

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

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

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

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

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

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

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

As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, order, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of

weight reduction based on caloric restriction, provided the physician complies with the following and that all of the following conditions are met:

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of≥ 30.0 in a normal otherwise healthy patient, or a BMI ≥ 27.0 in an individual with at least one associated co-morbidity, or current body weight ≥ 120 percent of a well documented, long standin g healthy weight that the patient maintained after the age of 18, or body fat 30% in females, or body fat ≥ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.

D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.

E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation

once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.

F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.

G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-

approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other

drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or

continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.

F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

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

   It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.
2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will

be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.

3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances

prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

   Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

G. A prescription shall no longer be valid after the occurrence of any one of the following events:
   1. Thirty (30) days after the death of the issuing physician.
   2. Thirty (30) days after the issuing physician has moved or otherwise changed the location of his or her practice so as to terminate the doctor/patient relationship. Termination of the doctor/patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing physician.

3. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
4. Immediately after revocation, suspension or surrender of the physician's license.

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

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

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

Rule 1.14 Security of Controlled Substances. In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are

maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Medical Practice.

A. Definitions. For the purpose of Part 2640, Rule 1.14 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Medical Practice" is defined as a public or privately owned medical practice that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) that treat pain as a result of terminal illness.

B. The physician owner(s)/operator(s) of the pain management medical practice must possess and maintain a majority ownership (more than 50%) of the pain management medical practice and shall register the practice with the Board. A hospital owned pain management practice is exempt from the majority ownership requirement; however, the hospital must employ a physician or medical director who meets the requirements set forth below. Certificates, once issued, are not transferable or assignable. Only the primary physician owner is required to register with the Board if there is more than one physician owner of the practice. Each practice requires a separate certificate.

C. Application for Initial Registration and Renewal. The physician owner(s)/operator(s) of the pain practice must:
   1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
   2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
   3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
   4. report any changes of information provided in the application for registration or renewal within 30 days.

D. Physician owner(s)/operator(s) may not operate a pain management practice in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

E. Physician owner(s)/operator(s) may not operate in Mississippi unless the practice 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 that is not designated as limited, retired, temporary, or in-training; and
   3. holds a certificate of registration for that pain management practice.

F. In addition, the physician owner(s)/operator(s) of a pain management practice, a physician or physician assistant employee of the practice or a physician or physician assistant with whom the physician owner(s)/operator(s) of a practice contracts for services may not:
   1. have been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
   2. have held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted;
   3. have been subject to a disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance; or
   4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. The physician owner(s)/operator(s) should not nor shall employ any physician or physician assistant who has been convicted of, pled nolo contendere to or received deferred adjudication for:
   1. an offense that constitutes a felony; or
   2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Medical Practices. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:

1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management.
6. Upon qualifying under any of the 5 subsections above, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on the initial visit and at intervals deemed appropriate for good patient care from the MPMP for every patient receiving controlled substances in a registered pain management practice.

J. Requirements for Physician Assistants Practicing in Pain Management Medical Practices. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:

1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
2. Physician assistants with approved prescriptive authority must obtain 15 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain practice;
3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. Notwithstanding, this does not prohibit a MPHP participant from working in a pain practice.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner(s)/operator(s) must reapply for an original certificate. The physician owner(s)/operator(s) of the practice shall post the certificate in a conspicuous location so as to be clearly visible to patients. The practice may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practice. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.

B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.

D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.

F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.

~~G. "Pain Management Clinic" means a public or privately owned facility for which the majority (50% or more) of the patients are issued, on a monthly basis, a prescription for opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol.~~

H. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts

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

The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these rules shall be maintained in the office of the physician for a period of seven (7) years from the date that the record is completed or the controlled substances, legend drugs or other medications are prescribed, administered or dispensed and shall be made available for inspection by representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.

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

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

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

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

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

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

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

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

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of $\geq$ 30.0 in a normal otherwise healthy patient, or a BMI $\geq$ 27.0 in an individual with at least one associated co-morbidity, or current body weight $\geq$ 120 percent of a well documented, long standing healthy weight that the patient maintained after the age of 18, or body fat $\geq$ 30% in females, or body fat $\geq$ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.
D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.
E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.
F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.
G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

G. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being

overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to

increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than

one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.

B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:
    1. The prescription order shall contain the date, time, telephone number and location of the transmitting device. Prescription blanks utilized in this manner shall bear a pre-printed heading that indicates the blank is a "Fax Prescription Form." Fax prescription orders must contain a manual or authenticated electronic/digital signature of the prescriber. As to Schedule II drugs, only Schedule II narcotic substances that are to be prepared or compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intra spinal infusion may be transmitted by the physician or the physician's agent to a pharmacy of the patient's choice by facsimile. All original hardcopy faxed prescriptions shall immediately be voided after successfully completing the fax transmission by writing across the face of the prescription from corner to corner the notation "faxed." The original prescription (or copy) shall be retained in the physician's patient file with additional information included on the back of the prescription as to the date it was faxed, the name or initials of the person faxing the prescription and the name/location of the pharmacy receiving the fax transmission.

       It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is

established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.

2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and

telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.

C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

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

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

Rule 1.13 Other Drugs Having Addiction-forming Liability. All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Part 2640, Rule 1.4 when administering or dispensing the drug Nalbuphine Hydrochloride (Nubain) or its generic equivalent. The inventory and dispensation/administration records for

said drug may be maintained separately or included as a part of the physician's controlled substance records.

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

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

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management ~~Clinics~~Medical Practice.

A. Definitions. For the purpose of Part 2640, Rule 1.14 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Medical Practice" is defined as a public or privately owned medical practice that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) that treat pain as a result of terminal illness.

B. The physician owner(s)/operator(s) of the pain management ~~clinic~~ medical practice ~~shall register with MSBML~~must possess and maintain a majority ownership (more than 50%)

of the pain management medical practice and shall register the practice with the Board. A hospital owned pain management practice is exempt from the majority ownership requirement; however, the hospital must employ a physician or medical director who meets the requirements set forth below. ~~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~~ practice. Each ~~clinic~~ practice requires a separate certificate.

C. Application for Initial Registration and Renewal. The physician owner(s)/operator(s) of the pain practice must:
   1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
   2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
   3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
   4. report any changes of information provided in the application for registration or renewal within 30 days.

D. ~~A pain management clinic~~ Physician owner(s)/operator(s) may not operate a pain management practice in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

E. ~~A pain management clinic~~ Physician owner(s)/operator(s) may not operate in Mississippi unless the ~~clinic~~ practice 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 that is not designated as limited, retired, temporary, or in-training; and
   3. holds a certificate of registration for that pain management ~~clinic~~ practice.

F. In addition, the physician owner(s)/operator(s) of a pain management ~~clinic~~ practice, a physician or physicians assistant ~~an~~ employee of the ~~clinic~~ practice or a ~~person~~ physician or physicians assistant with whom the physician owner(s)/operator(s) of a ~~clinic~~ practice contracts for services may not:
   1. have been denied, by any jurisdiction, a ~~license~~certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
   2. have held a ~~license~~certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted; ~~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~~.~~; or
   4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. ~~A pain management clinic may not be owned wholly or partly by~~ The physician owner(s)/operator(s) should not nor shall employ any ~~person~~ physician or physician assistant who has been convicted of, pled nolo contendere to or received deferred adjudication for:
   1. an offense that constitutes a felony; or
   2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Medical Practices. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:
   1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
   2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
   3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
   4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or
   5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management.
   6. Upon qualifying under any of the 5 subsections above, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on the initial visit and at intervals deemed appropriate for good patient care from the MPMP for every patient receiving controlled substances in a registered pain management practice.

J. Requirements for Physician Assistants Practicing in Pain Management Medical Practices. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:
   1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
   2. Physician assistants with approved prescriptive authority must obtain 15 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain practice;

3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. Notwithstanding, this does not prohibit a MPHP participant from working in a pain practice.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner(s)/operator(s) must reapply for an original certificate. The physician owner(s)/operator(s) of the practice shall post the certificate in a conspicuous location so as to be clearly visible to patients. The ~~clinic~~ practice may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practice. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

November 8, 2007; as amended May 15, 2008; as amended March 13, 2009; as amended March 24, 2011; and as amended September 17, 2012.

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

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

KAREN HOLLOWAY, M.D.

ORDER REMOVING ALL RESTRICTIONS

THIS MATTER came on regularly for consideration on July 18, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Karen Holloway, M.D., (hereinafter "Licensee"), seeking removal of all restrictions imposed on her Mississippi medical license by virtue of that certain Consent Order dated May 17, 2012. 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, Karen Holloway, M.D.

ORDERED, this the 18th day of July 2013.

Mississippi State Board of Medical Licensure

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE OF

VICTOR JAY ZUCKERMAN, D.O.

ORDER

THIS MATTER came on regularly for hearing on July 18, 2013, 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 June 13, 2013, by issuance of a Summons and Affidavit which was served on Victor Jay Zuckerman, D.O. (hereinafter "Licensee") by registered mail on June 16, 2013, setting forth a total of two (2) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee failed to appear and was not represented 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, S. Randall Easterling, M.D., President; Larry B. Aycock, M.D.; Claude D. Brunson, M.D.; Rickey L. Chance, D.O.; Charles D. Miles, M.D.; William B. Jones, M.D. and Philip T. Meredith, M.D., J.D.

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

FINDINGS OF FACT

1. Licensee is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 22261. Said license is current until June 30, 2013.

2. Licensee did not file an answer to the Summons and Affidavit. By virtue of Title 30, Part 2645, Chapter 1 of the Board's *Rules of Procedure*, all matters asserted in the Summons and Affidavit have been taken as admitted. Nonetheless, Complaint Counsel introduced a number of exhibits and the Board heard the testimony of Board investigator Thomas Washington, all in support of the charges as set forth in the Summons and Affidavit.

3. On September 26, 2012, Licensee was invited to appear before the Board of Medical Licensure's Executive Committee (E.C.) to discuss concerns with his licensure application. Licensee, a pediatrician, wanted to practice outside his specialty of pediatrics. Due to scheduling problems, Licensee was unable to attend the September 26, 2012, meeting. His appearance before the E.C. was continued to the November 14, 2012, E.C. Meeting. At the November 14, 2012, E.C. Meeting, the Board's Executive Director, H. Vann Craig, M.D., advised the E.C., that the issuance of Licensee's medical license was delayed because Licensee had requested to practice outside his specialty, Pediatrics. Licensee informed the E.C., he is a licensed pediatrician practicing anti-aging, Botox, lasers, hormone replacement and is certified to operate a machine that alleviates toenail fungus. Following a discussion concerning the Board's Rules and Regulations as it relates to advertising and the truth in advertising law passed earlier by the Mississippi legislature, the E.C. voted that Licensee be issued a Mississippi medical license, but reminded him of the Board's Rules and Regulations concerning advertising and instructed him that he must strictly abide by them.

4. On March 18, 2013, in a disciplinary action before the Louisiana Board of Medical Examiners, styled *In The Matter Of Victor Jay Zuckerman, D.O.,* Licensee's certificate (No. 000189) to practice of medicine in the State of Louisiana was *Officially Reprimanded* for the conduct identified herein below, provided, however, that such license

and Licensee's continuing exercise of the rights and privileges there under was conditioned upon his acceptance of and strict compliance with terms and conditions. This action was taken by the Louisiana Board following the receipt of apparently reliable information which indicated that Licensee, a physician who at all times material to the facts and matters alleged herein is a licensed and engaged in the practice of medicine in and around Shreveport, Louisiana, and had agreed to serve as the Medical Director of the Longevity Center in Shreveport, which was owned and operated by a registered nurse. During the course of an onsite investigation by the Louisiana Board staff, the nurse was found to be administering Botox to a patient in the absence of physician supervision. The nurse admitted to the investigators that she was the primary provider at the Longevity Center and regularly administered Botox and other Dermal Fillers without a physician evaluation, order or physical presence. As the Medical Director, Licensee was responsible for assuring that the care provided to patients was performed by appropriately trained and licensed individuals. Licensee allowed this individual to use his name in promoting her practice and did not take steps to prevent her from engaging in the unauthorized practice of medicine.

CONCLUSIONS OF LAW

Licensee is guilty of Count I of the June 13, 2013, Affidavit of Thomas Washington by virtue of Licensee having had restrictions imposed on his license, permit or certificate to practice medicine by the licensing authority of another state or jurisdiction, a certified copy of the disciplinary order or action taken by the other state or jurisdiction being prima facie evidence thereof, all in violation of Miss. Code Ann., Section 73-25-29(13).

Licensee is guilty of Count II of the June 13, 2013, Affidavit of Thomas Washington by virtue of being guilty of conduct deemed unprofessional, which includes, but is not

limited to being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., Sections 73-25-29(8)(d) and Section 73-25-83(a).

ORDER

IT IS THEREFORE, ORDERED that based upon the Findings of Fact and Conclusions of Law enumerated above, Mississippi Medical License No. 22261, duly issued to Victor Jay Zuckerman, D.O., is hereby indefinitely suspended.

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, 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 Licensee receives the aforementioned 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.

SO ORDERED, this the 18th day of July, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D
PRESIDENT

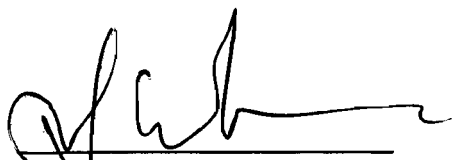
EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
July 18, 2013

AGENDA ITEM: XII. Personal appearance by Michael Sean Zaleski, DPM

In a motion made by Dr. Merideth, seconded by Dr. Brunson, and carried the Board agrees with MPHP's recommendation for Dr. Zaleski to enter an approved inpatient program and then enter into a 5 year agreement with MPHP for advocacy.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Chance, seconded by Dr. Brunson, the Board came out of Executive Session.



S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MICHELLE QUYNH CHI LAI, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on July 18, 2013, before the Mississippi State Board of Medical Licensure in response to a request filed by Michelle Quynh Chi Lai, M.D. (hereinafter "Licensee") through her attorney, Philip C. Hearn, for a continuance of the hearing set for this date and request for additional four (4) weeks to file an answer. 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 the next regularly scheduled Board meeting, September 19, 2013.

IT IS, THEREFORE, ORDERED, that Licensee shall have an additional four (4) weeks from July 10, 2013, in which to file an answer in this cause.

SO ORDERED, this the 18th day of July, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	07/22/13	Part 2621 Chapter 1: Limited X-ray Machine Operator		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This is a new rule based on legislation which requires the Board to permit limited x-ray machine operators.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed:** _____
_____ Renewal of effectiveness	__X__ New rule(s)	**Action taken:**
To be in effect in _____ days	_____ Amendment to existing rule(s)	_____ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	__X__ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**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
	FILED JUL 22 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	Accepted for filing by	Accepted for filing by

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

DELBERT HOSEMANN
Secretary of State

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	Part 2621 Chapter 1: Limited X-Ray Machine Operator		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

A. Estimated Costs and Benefits

1. Briefly summarize the benefits that may result from this regulation and who will benefit:

   This rule expands on MS Code 41-58-1 in which the Board is directed to issue permits to individuals who take x-rays in a physician's office or under the direction of a physician in a hospital. This rule will assist the Board in better informing individuals of the requirements for a limited x-ray machine operator permit and their scope of practice.

2. Briefly describe the need for the proposed rule:

   This law has been in effect for several years; however, the Board has never adopted regulations to address certain areas of confusion until now. Previously, some of the directives were required by the MS Department of Health; however, with the passage of House Bill 69, Regular Session 2013, the Board was given more authority over these individuals. This rule will help clarify the requirements for a limited x-ray machine operator permit and outlines the scope of practice for these individuals.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:

   This rule will help insure that individuals taking x-rays in a physician's office or under the direction of a physician in a hospital will have the information required for a permit. It will also make individuals aware of the need of a permit to perform these tasks.

4. Estimated Cost of implementing proposed action:
   a. To the agency
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive
   b. To other state or local government entities
      ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:

c. Cost:
☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

d. Economic Benefit:
☒ Nothing ☐ Minimal ☒ Moderate ☐ Substantial ☐ Excessive

6. Estimated impact on small businesses:
☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

a. Estimate of the number of small businesses subject to the proposed regulation: Unknown
b. Projected costs for small businesses to comply: Amount of CME courses and permit fee.
c. Statement of probable effect on impacted small businesses: Businesses will not get a citation for having a person performing x-rays in their office. Only qualified individuals will perform x-rays in a physician's office.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
☐ substantially less than ☐ moderately less than ☐ minimally less than
☒ the same as ☐ minimally more than ☐ moderately more than
☐ substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
☐ substantially less than ☐ moderately less than ☐ minimally less than
☒ the same as ☐ minimally more than ☐ moderately more than
☐ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
☒ yes ☐ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.) The Board can continue to utilize State law for the requirements and scope of practice by limited x-ray machine operators. However, these rules are condensed to address only those working in a physician's office or under the direction of a physician in a hospital. These rules are more accessible and easier to understand.

C. Data and Methodology

1. Please briefly describe the data and methodology you used in making the estimates required by this form.

Because this rule is also State law and it has been in effect for several years, the Board is aware of what is needed and who are eligible for an LXMO permit.

D. Public Notice

1. Where, when, and how may someone present their views on the proposed rule and demand an oral proceeding on the proposed rule if one is not already provided? In writing to the following address:

Mississippi State Board of Medical Licensure
Attn: Vann Craig, M.D.

1867 Crane Ridge Drive Suite 200-B
Jackson MS 39216

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 07/22/2013	PROPOSED EFFECTIVE DATE OF RULE 30 days from final filing

DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Agency is encouraged to use as much space as will adequately answer all questions. A PDF version of this executed Form must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Board of Medical Licensure	Rhonda Freeman		(601) 987-3079
ADDRESS	CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B	Jackson	MS	39216
EMAIL	DESCRIPTIVE TITLE OF PROPOSED RULE		
rhonda@msbml.ms.gov	Part 2621 Chapter 1: Limited X-Ray Machine Operator		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
73-43-11	N/A

1. Describe the need for the proposed action: MS Code 41-58-1 has been in effect for several years; however, the Board has never adopted regulations to address certain areas of concern until now. Previously, some of the directives were required by the MS Department of Health; however, with the passage of House Bill 69, Regular Session 2013, the Board was given more authority over these individuals. This rule will help clarify the requirements for a limited x-ray machine operator permit and outlines the scope of practice for these individuals.
2. Describe the benefits which will likely accrue as the result of the proposed action: This rule will assist the Board in better informing individuals of the requirements for a limited x-ray machine operator permit and their scope of practice.
3. Describe the effect the proposed action will have on the public health, safety, and welfare: This rule will help insure that individuals taking x-rays in a physician's office or under the direction of a physician in a hospital will have the information required for a permit. It will also make individuals aware of the need of a permit to perform these tasks.
4. Estimate the cost to the agency and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues: This rule should not affect the cost to this agency or any other agency. The law this rule is based on has been in effect for several years.
5. Estimate the cost or economic benefit to all persons directly affected by the proposed action: There should be no cost or economic impact because this rule is based on a law that has been in effect for several years.
6. Provide an analysis of the impact of the proposed rule on small business: There should be no impact due to this rule being based on a law that has been in effect for several years.
    a. Identify and estimate the number of small businesses subject to the proposed regulation: Unknown

b. Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record: Clinics will have to make sure employees have taken CME course and applied for permit.
c. State the probable effect on impacted small businesses: Businesses will not get a citation for having a person performing x-rays in their office. Only qualified individuals will perform x-rays in a physician's office.
d. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis: The Board could rely on State law.
    i. The establishment of less stringent compliance or reporting requirements for small businesses;
    ii. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
    iii. The consolidation or simplification of compliance or reporting requirements for small businesses;
    iv. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
    v. The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations:

7. Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule: The Board can continue to utilize State law or the requirements and scope of practice by limited x-ray machine operators. However, these rules are condensed to address only those working in a physician's office or under the direction of a physician in a hospital. These rules are more accessible and easier to understand.
8. Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law:
9. Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency: The Board could continue to use State law.
10. State reasons for rejecting alternative methods that were described in #9 above: The proposed rule makes is easier to understand the requirements to practice as a LXMO.
11. Provide a detailed statement of the data and methodology used in making estimates required by this subsection: This rule is also State law and it has been n effect for several years. The board is aware of what is required and who is eligible for an LXMO permit.

SIGNATURE Rhonda Freeman	TITLE Bureau Director
DATE 07/22/2013	PROPOSED EFFECTIVE DATE OF RULE 30 Days from final filing

Part 2621: Limited X-Ray Machine Operator

Part 2621 Chapter 1: Limited X-ray Machine Operator

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

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

Rule 1.2 Definitions.

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

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

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

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

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

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

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

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

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

C. a renewal fee as prescribed by the Board.

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

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
July 18, 2013

AGENDA ITEM: XV. Hearing in the case of Mathew Cary Wallack, M.D.

In a motion by Dr. Brunson, seconded by Dr. Jones, and carried all Board members with the exception of Dr. Aycock found Licensee guilty of Count #1, and all Board members found Licensee guilty of Count #2 based on the storage of schedule drugs in his office that were in violation of MSBML's rule regarding dispensing and storage of scheduled drugs. The Board's Findings of Facts were adopted and attached. The Board voted that Licensee's license remain suspended and in order to petition the Board he must enter and complete treatment as well as obtaining advocacy from MPHP.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
Larry B. Aycock, M.D.	X (On the Count #2, Finding of Facts, and decision.)			
** Dr. Aycock Voted for Count #1		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. Jones, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

MATHEW CARY WALLACK, M.D.
HEARING JULY 18, 2013
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1) That licensee was referred to the Examining Committee in November 2012 under the Mississippi Disabled Physician Law after several incidences of behavior indicative of drug abuse and disruptive behavior.

2) That the Examining Committee determined that licensee should undergo a comprehensive assessment at a Board approved facility.

3) That an assessment in December 2012 by Elmhurst Memorial Healthcare's Professional Program in Illinois indicated that Dr. Wallack was not fit to practice medicine.

4) That based on this assessment the Examining Committee notified the Board in January 2013 of its opinion that Dr. Wallack's continued practice would pose a threat to the public.

5) That the Board accepted this recommendation in January 2013.

6) That Dr. Wallack enrolled himself at Shands Recovery Center in Florida.

7) That Shands reported Dr. Wallack as being highly disruptive and agitated and exhibiting behavior not consistent with ADHD, and found him to be dependent on stimulants.

8) That Dr. Wallack left Shands after 3 days against medical advice and without completing treatment.

9) That Dr. Wallack has failed to obtain treatment as ordered by the Examining Committee and the Board.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE OF

MATHEW CARY WALLACK, M.D.

ORDER

THIS MATTER came on regularly for hearing on July 18, 2013, 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 January 31, 2013, by issuance of a Summons and Affidavit, Determination of Need for Temporary Suspension and Order of Temporary Suspension, which was personally served on Mathew Cary Wallack, M.D. (hereinafter "Licensee") on February 1, 2013. Summons and Affidavit set forth a total of two (2) counts of violation of Miss. Code Arin. Sections 73-25-29 and 73-25-53. Through a series of multiple requests for continuance, the matter was ultimately set for this date.

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

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

FINDINGS OF FACT

1. Licensee is a physician licensed to practice medicine in the State of Mississippi, currently holding License No. 18379. Although said license is current until June 30, 2013, Licensee has been prohibited from practicing medicine in the state of Mississippi since February 1, 2013.

2. In April, 2010, Licensee was a solo practitioner operating a pain management practice in Ocean Springs, Mississippi, known as Coastal Headache and Pain Management. Licensee presented to the emergency room at the Biloxi Regional Medical Center, twice complaining of pain and was perceived by the ER staff to be exhibiting drug seeking behavior. In particular, Licensee presented to the emergency room staff a quantity of narcotics placed in a cigarette wrapper as proof that he was not drug seeking. Law enforcement was contacted and Licensee was arrested for possession of a controlled substance. This resulted in a search of Licensee's clinic by law enforcement authorities and surrender of his controlled substances certificate (DEA). The search revealed substantial quantities of unsecured controlled substances, many of which were labeled for patients he was treating. According to Licensee, the drugs were returned by patients, yet he failed to properly dispose of same. Maintenance of returned controlled drugs in this manner is a violation of the Board's regulations. The possession charges were ultimately dismissed in 2012.

3. During March, 2012, Licensee made numerous phone calls and several visits to the office of the Victims Coordination Unit of the Mississippi Bureau of Investigation (MBI) in Gulfport. Based on various accounts of the events as expressed by Licensee, and the treatment centers wherein he sought evaluation, the staff of the Victims

Coordination Unit was "spooked" by Licensee's behavior, so much so that an Agent decided to search Licensee to insure everyone's safety. This conduct was reported to the investigative staff of the Board.

4. Based on the aforementioned conduct on November 12, 2012, Licensee was referred to the Examining Committee designated pursuant to the Mississippi Disabled Physician Law to determine if Licensee was able to practice medicine with reasonable skill and safety to patients due to possible mental illness and/or excessive use or abuse of drugs. After meeting with Licensee, it was the determination of the Examining Committee that Licensee should obtain a comprehensive assessment at a Board approved facility.

5. Licensee presented for a comprehensive assessment at Elmhurst Memorial Healthcare's Professionals Program in Elmhurst, Illinois, during December 3 - 4, 2012. Evaluators found that Licensee was on a combination of amphetamines which prevented evaluators from further diagnosing any psychiatric conditions. Licensee also exhibited similar, erratic behaviors as were described by sources with MBI. This was felt by evaluators to be related to Licensee's heavy usage of amphetamines. Evaluators recommended, in part:

> *Based on individual interviews, psychological testing data, Dr. Wallack's behavior during this assessment process, and factoring in collateral data, we do not find Dr. Wallack fit to practice medicine with reasonable skill and safety at this time. Due to his amphetamine addiction, in our professional opinion, his judgment is impaired.*

6. Following the receipt of the recommendations of the Elmhurst Memorial Healthcare's Professionals Program, the Board received a letter on January 9, 2013, from Scott Hambleton, M.D., Director of the Mississippi Professionals Health Program (MPHP), speaking as the Chair of the Examining Committee. The Committee felt that due to the

recommendations of Elmhurst, Licensee's continued practice would represent a threat to public health and safety. Licensee was provided several options to obtain treatment and was told to contact the Board no later than January 11, 2013, with a decision on where he would receive treatment.

7. On January 24, 2013, the Board met and accepted the recommendations of the Examining Committee as outlined in Dr. Hambleton's letter. At the time of the acceptance of the recommendations, Licensee had enrolled at The University of Florida Shands Recovery Center in Gainesville (Shands). Through a statement from Licensee's attorney, assurances were provided to the Board that Licensee would not practice medicine pending completion of treatment. At the same time, Licensee executed a release so that the MPHP and Board could receive any and all treatment reports. The Board was later advised that Licensee's submission to Shands was for a second opinion.

8. On January 28, 2013, the Board was informed that Licensee had checked out of Shands against medical advice (AMA) after only being at the center for a short while. Licensee also rescinded all prior releases, thus denying the MPHP and Board access to the evaluation results. Thereafter, the only records which Licensee produced were those at the Shands Vista Hospital, being the facility where Licensee was transferred after the evaluation at The University of Florida Recovery Center – Physician Health Program. As a result, the only Shands records considered by the Board were those from Shands Vista Hospital, not The University of Florida Recovery Center – Physician Health Program. Notwithstanding, the Shands records revealed a discharge diagnosis of "Stimulant Dependence; Attention Deficit Disorder", adding that at the Florida Recovery Center –

Physician Health Program, Licensee "repeatedly displayed disruptive behaviors not consistent with attention deficit disorder. He [Licensee] consistently exhibited and described a pathologic attachment to his medication. He [Licensee] was sent to Vista West for his safety." Based on this and other factors, it was the final recommendation of the MPHP that Licensee receive comprehensive multi-disciplinary residential treatment.

CONCLUSIONS OF LAW

Licensee is guilty of Count I of the January 31, 2013, Affidavit of Jonathan Dalton by virtue of Licensee being guilty of the habitual personal use of narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, all in violation of Miss. Code Ann., § 73-25-53(c), and § 73-25-29(1).

Licensee is guilty of Count II of the January 31, 2013, Affidavit of Jonathan Dalton by virtue of being guilty of conduct deemed unprofessional, which includes, but is not limited to being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public, all in violation of Miss. Code Ann., Sections 73-25-29(8)(d).

ORDER

IT IS THEREFORE, ORDERED that based upon the Findings of Fact and Conclusions of Law enumerated above, Mathew Cary Wallack, M.D., shall continue to be and is hereby prohibited from practicing medicine in the state of Mississippi until such time as he complies with the following requirements:

1. Licensee successfully completes a comprehensive multi-disciplinary treatment at a treatment facility approved by the Mississippi Professionals Health Program (hereinafter "MPHP"), under the direction of its Medical Director. Licensee shall bear all costs of said

treatment. Licensee shall execute such releases so as to authorize the treatment facility, its medical director or staff, (1) to fully communicate with the MPHP and Board; and (2) to provide the MPHP with a full and complete treatment report and any other document or record which may be requested by the MPHP.

2. At such time as requested by the MPHP, Licensee shall take those steps necessary to obtain affiliation and advocacy with MPHP. Licensee shall comply with all affiliation requirements of MPHP, its Medical Director or the Mississippi Professionals Health Committee (hereinafter "MPHC"). Licensee shall execute such releases so as to authorize 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.

3. At such time as Licensee has completed treatment pursuant to Item 1 and secured affiliation pursuant to Item 2 of this Order, Licensee shall have the right, but not the obligation, to request authorization from the Board to return to the practice of medicine in the state of Mississippi. Consideration of such a request shall be scheduled at the first available meeting date after receipt of the request, which shall include a copy of the treatment (discharge) report and the affiliation recommendations from the MPHP. In this regard the Board reserves the right to impose on Licensee any other restrictions which the Board, in its sole discretion, shall deem necessary to implement the recommendations of the MPHC or to otherwise 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, 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 Licensee receives the aforementioned 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 Mathew Cary Wallack, M.D., with a copy to all counsel.

SO ORDERED, this the 18th day of July, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D
PRESIDENT

SEPTEMBER 2013

MINUTES
EXECUTIVE COMMITTEE MEETING
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 18, 2013

MEMBERS PRESENT:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, 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 H. Pilgrim, Staff Officer

The Executive Committee of the Mississippi State Board of Medical Licensure met on Wednesday, September 18, 2013, 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 CHRISTOPHER CUMMINS, M.D., RIPLEY, MISSISSIPPI MEDICAL LICENSE NUMBER 19838, AND KATIE DAGGETT, PA-C, RIPLEY, MISSISSIPPI LICENSE NUMBER PA 00181

Dr. Craig advised that Dr. Cummins and PA Daggett had been invited to discuss concerns the Board has with Dr. Cummins' supervision of mid-level providers, social media advertising, properly advertising credentials of his staff, and a complaint that had been received by the Board. Investigator Boyette gave a brief summary of his on-site visit with Dr. Cummins and PA Daggett and addressed areas of concern.

Dr. Cummins and PA Daggett both entered the meeting and were introduced as well as their attorneys. Harris Williams was present representing Dr. Cummins, and Dennis Hawkins was present representing PA Daggett. Dr. Cummins and PA Daggett had both executed a written agreement for this informal meeting, a copy of which is

attached hereto and incorporated by reference.

Dr. Craig asked Dr. Cummins if he had a backup physician and he stated that he did not. Dr. Craig then advised that he had recently had a protocol telephone interview with Dr. Cummins and PA Daggett, and it was discussed with both of them that with PA Daggett being a new physician assistant that the Board's rules and regulations state that for the first 120 days they have to work directly with each other and she was to be closely supervised. Dr. Craig advised that the Board was aware that Dr. Cummins had gone to Hattiesburg for national guard duty and left an APRN and the new PA alone in the clinic.

The Executive Committee also asked questions concerning several patient outcomes, social media advertising being done by the clinic, the improper public advertising of credentials for staff in the clinic, and improper billboard advertising.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried that the Executive Committee enter into Executive Session to discuss possible disciplinary action concerning Dr. Cummins and PA Daggett.

Upon a motion by Dr. Crawford, seconded by Dr. Easterling, and carried the Executive Committee came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on their recommendation. Dr. Aycock advised that the Executive Committee voted to recommend to the Board that Dr. Cummins be sent a proposed consent order that prohibits him from being in a collaborative relationship with an APRN or PA for one (1) year, that he agrees to cease all social media advertising, that he will correct staff advertising within the office, properly address all other advertising for the clinic, as well as within the next year take courses in Ethics and HIPPA, and further obtain a current ACLS certificate. Dr. Aycock advised that PA Daggett is to be issued a non-public letter of concern addressing violations of the Board's rules and regulations concerning working without supervision during her first 120 days. Also, she will be advised that at her next employment that she will be required to complete a total of 120 days supervision as the time with Dr. Cumrnins will not count towards the 120 day requirement.

Dr. Easterling advised Dr. Cummins that should he elect not to sign the proposed consent order that will be sent to him, that he will receive a summons and affidavit to appear in a hearing before the full Board to address the matter. Dr. Easterling thanked both Dr. Cummins and PA Daggett for appearing today.

A copy of the proposed consent order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY ROBERT OZON, M.D., GAUTIER, MISSISSIPPI MEDICAL LICENSE NUMBER 17909

Dr. Craig advised that Dr. Ozon had been invited to appear before the Executive Committee to address the fact that he did not know when visited by an investigator if he was the primary or secondary on the protocols for a CRNA who is performing spinal injection procedures or an APRN that works in pain mangement. Dr. Craig advised that Dr. Ozon is a neurologist and has further admitted that he has signed prescriptions for controlled substances for patients that he has not evaluated.

Investigator Dalton addressed the Executive Committee and briefly discussed areas of concern from the Board's recent on-site visit with Dr. Ozon.

Dr. Ozon joined the meeting and was not represented by legal counsel. Dr. Ozon had executed a written agreement for this informal meeting, a copy of which is attached hereto and incorporated by reference. Dr. Gregory Picou, a chiropractor, accompanied Dr. Ozon and stated that he was the owner of the clinic.

Dr. Craig asked Dr. Ozon if he pre-signed prescriptions and he stated that he does not but signs them as they are written. Dr. Craig advised Dr. Ozon that it was illegal for him to have two (2) controlled substances on the same prescription, yet there were multiple infractions where this had occurred. Dr. Ozon advised that he was not aware of that law but would correct the matter. Dr. Easterling questioned Dr. Ozon's training for nerve blocks and discussed concerns with the documentation he had submitted to the Board concerning his training.

Following a brief discussion concerning the areas of concern, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried that the Executive Committee enter into Executive Session to discuss a possible disciplinary matter concerning Dr. Ozon.

Upon a motion by Dr. Crawford, seconded by Dr. Aycock, and carried the Executive Committee came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on their recommendation. Dr. Aycock advised that the Executive Committee voted to recommend to the Board that Dr. Ozon be sent a proposed consent order that prohibits him from being in a collaborative relationship with any mid-level provider for one (1) year, after which time he may appear before the Board to re-apply, and that within the next year he enroll and successfully complete courses in proper prescribing of controlled medications. Also, Dr. Ozon is to submit documentation of successful completion to the Board.

Dr. Easterling advised Dr. Ozon that should he elect not to sign the proposed

consent order that will be sent to him, that he will receive a summons and affidavit to appear in a hearing before the full Board to address the matter. Dr. Easterling thanked Dr. Ozon for appearing today.

A copy of the proposed consent order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY DAVID MARK GILDER, M.D., YAZOO CITY, MISSISSIPPI MEDICAL LICENSE NUMBER 09705

Dr. Craig advised that Dr. Gilder had been invited to appear before the Executive Committee to discuss issues with his writing prescriptions on plain paper that can easily be tampered with or copied, as well as concerns with his prescribing and providing excessive refills to patients.

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

Dr. Craig questioned Dr. Gilder concerning his use of plain paper for prescriptions and explained why the Board had concerns. The Executive Committee asked Dr. Gilder to address why he was not using the Prescription Monitoring Program (PMP), and he advised that he had been unable to register due to a discrepancy with his practice address and his DEA registration. The Executive Committee provided Dr. Gilder with a contact at the Pharmacy Board to call for assistance, and advised him that per the Board's rules and regulations and his practice in pain management, that he was required to be registered with the PMP. Dr. Gilder advised that he was unaware of the requirement but would handle the matter. Dr. Gilder advised that he had inherited many of his patients and that he was working on controlling their pain medications.

Dr. Easterling thanked Dr. Gilder for appearing today and told him that the Board would advise him later of their decision. Following a brief discussion, the Executive Committee unanimously agreed to send Dr. Gilder a non-public letter of concern recapping the items discussed at today's meeting.

PERSONAL APPEARANCE BY STEPHEN LAWRENCE CHOUTEAU, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 09094

Dr. Craig advised that Dr.Chouteau had been invited to appear before the Executive Committee to discuss concerns with APRN Melanie Garner, and the fact that he

was unaware of being listed as her supervising physician.

Investigator Dalton addressed the Executive Committee and advised that APRN Garner had secured a grant to work for the Rankin County School System for two (2) years, and that part of the grant was that she would have supervision. Mr. Dalton advised that state auditors were investigating the matter and had called the Board concerning the fact that no physician had reported a collaborative relationship with APRN Garner on their license renewal.

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

Dr. Craig asked Dr. Chouteau to advise the Executive Committee of his involvement with APRN Garner. Dr. Chouteau advised that they were acquaintances and that she had asked him in December 2012, if he would help her and he verbally agreed to be what he thought was more of a consultant. Dr. Chouteau advised that he did not sign a protocol nor did he have a copy, but that he was no longer supervising APRN Garner.

Dr. Easterling thanked Dr. Chouteau for appearing and advised that the Executive Committee would discuss the matter further and advise him of their decision.

After a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Aycock, and carried to issue Dr. Chouteau a non-public letter of concern addressing the matter and providing Dr. Chouteau with a copy of the Board's rules and regulations concerning collaboration/consultation with nurse practitioners.

LETTER FROM G. V. (SONNY) MONTGOMERY DEPARTMENT OF VETERANS AFFAIRS CONCERNING STATUS OF NPDB REPORT SENT ON MAJID A. KHAN, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 17822

Dr. Craig briefly discussed a letter and notification from the Jackson VA of a malpractice payment that had been made on behalf of Dr. Khan. Dr. Craig advised that Dr. Khan is now employed at the University of Mississippi Medical Center and then discussed problems that the Board has had trying to obtain information.

Following a brief discussion, the Executive Committee agreed that due to the nature of the report received that the Board open an investigation into the matter to see if any discipline is in order. Mr. Ingram advised that he would work with the investigators to seek needed information.

REVIEW OF SEPTEMBER 19, 2013, BOARD AGENDA

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

ADJOURNMENT

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

S. RANDALL EASTERLING, M.D.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
September 18, 2013

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **Christopher Cummins, M.D.,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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:

   X with legal counsel present (name of counsel: Mr Harris Williams

   ___ without legal counsel present

EXECUTED, this the 18th day of September, 2013.

Chm Cummens M.D., M.T.
LICENSEE MAJ, MSA, ANG

Witness: Sherry Pilgrim

NAME PRINTED

EXECUTIVE SESSION - EXECUTIVE COMMITTEE
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 18, 2013

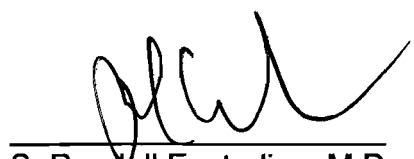
AGENDA ITEM: Personal appearance by Dr. Cummins and Katie Daggett, PA

The Executive Committee will recommend to the Full Board that Dr. Cummins sign a consent agreement to not collaborate with APRNs or PAs for 1 year, then he may reapply for collaborative agreement after that time. Dr. Cummins is to cease all advertising on social media, and all public advertising must accurately reflect the credentials of his employees when posted. Also, Dr. Cummins is to attend courses in Ethics and HIPPA compliance as well as obtain current ACLS certification.

The Executive Committee recommends a non-public Letter of Concern be issued to Ms. Daggett. Also, Ms. Daggett will be required to start over with the 120 days of onsite supervision when she secures a new collaborative agreement.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
S. Randall Easterling, M.D.	X			
Virginia M. Crawford, M.D.	X			
Larry B. Aycock, M.D.	X			

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



S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CHRISTOPHER J. M. CUMMINS, M. D.

CONSENT ORDER

WHEREAS, Christopher J. M. Cummins, M. D., hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License Number 19838, and said license is current until June 30, 2014;

WHEREAS, the Investigative staff of the Mississippi State Board of Medical Licensure conducted an investigation into the medical practice of Licensee in Ripley, Mississippi, and has documented evidence indicating that Licensee has violated the rules and regulations of the Board, pertaining to the supervision of a Physician Assistant, the collaboration with Advanced Practice Registered Nurses (APRN's) as well as the Board's rules and regulations related to physician advertising;

WHEREAS, if established in a due process hearing, such conduct is in violation of the rules and regulations of the Board, specifically Title 30, Part 2630 Chapter 1 (Collaboration with Nurse Practitioners), Title 30, Part 2615 Chapter 1 (Supervision of Physician Assistants) and Title 30, Part 2635 Chapter 12 (Physician Advertising), for which the Mississippi State Board of Medical Licensure may place the 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 medical license, or take any other action the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid an evidentiary hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions being placed 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 place the following restrictions on the Licensee's Certificate (No. 19838) to practice medicine in the State of Mississippi, for a term on one (1) year, to-wit;

(1) Licensee shall immediately terminate all collaborative relationships currently in effect with any and all Advanced Practice Registered Nurses (APRN's) as well as immediately cease any and all supervisory relationships with any and all Physician Assistants.

(2) Licensee shall immediately cease all physician or clinic advertising on all forms of the Social Media Network.

(3) Licensee must ensure that all other forms of public advertising properly and accurately addresses his, and his employees qualifications.

(4) Within the next twelve (12) months, Licensee shall attend, and satisfactorily complete courses designated as American Medical Association approved, Category I Continuing Medical Education (CME) in the areas of professional medical ethics and HIPAA rules and regulations; with said courses approved in advance by the Executive Director of the Board. Such courses shall be in-person format. Correspondence, internet/remote access, or independent study are not permitted. Licensee shall submit to the Board documentary proof of successful completion. Additionally, any credits obtained pursuant to this requirement shall be in addition to the biennial forty (40) hours of Category I CME credits as cited in Part 2610, Chapter 2 of the Board's Rules and Regulations.

(5) Licensee must obtain current certification in Advanced Cardiac Life Support (ACLS), and must provide proof of certification to the Board upon completion.

(6) Pursuant to Miss. Code Ann., Section 73-25-30, Licensee shall pay all such

investigative cost 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 payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date the assessment is mailed via U. S. Mail to the Licensee's primary practice location.

(7) Violation(s) of any provision(s) of the Medical Practice Act, the Mississippi Controlled Substances Law, the rules and regulations of the Board, or any provision of this Order, shall be grounds for additional disciplinary action by the Board.

This Consent Order and the action taken as provided herein, pertains solely to the above enumerated regulatory violations (collaboration with APRN's, supervision of Physician Assistants and physician advertising). Accordingly, the Board reserves the right and authority to conduct any further investigation and initiate disciplinary action where deemed appropriate, as to any other violations of the Mississippi Medical Practice Act.

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 National Practitioner Data Bank and 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, and to have such charges adjudicated pursuant to Miss. Code Arin., Section 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, Christopher J. M. Cummins, M. D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter this Consent Order, thereby placing the above enumerated terms, conditions, and restrictions on his license to practice medicine in the State of Mississippi.

Executed, this the _____ day of October, 2013.

Christopher J. M. Cummins, M.D.

ACCEPTED AND APPROVED, this the _____day of October, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
President

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **Katie Daggett, PA-C,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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: Dennis P. Hawkins

   ___ without legal counsel present

EXECUTED, this the ____ day of September, 2013.

K Daggett PA-C
LICENSEE

Witness: Sherry Pilgrim

Katie Daggett
NAME PRINTED

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **Robert Ozon, M.D.,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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 18 day of September, 2013.

_____
LICENSEE

Witness: Sherry Pilgrim

_____
NAME PRINTED

EXECUTIVE SESSION - EXECUTIVE COMMITTEE
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 18, 2013

AGENDA ITEM: Personal appearance by Dr. Robert Ozon

The Executive Committee will recommend to the Full Board that Dr. Ozon not be allowed to have a collaborative relationship with APRNs, CRNAs, or PAs for 1 year, then he may reapply for collaborative relationships.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
S. Randall Easterling, M.D.	X			
Virginia M. Crawford, M.D.	X			
Larry B. Aycock, M.D.	X			

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

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ROBERT KENT OZON, M.D.

CONSENT ORDER

WHEREAS, Robert Kent Ozon, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 17909 issued on December 12, 2002, to practice medicine in the State of Mississippi;

WHEREAS, on April 1, 2013, the Mississippi State Board of Medical Licensure, hereafter referred to as the "Board," received a complaint alleging improper collaborative practice on the part of Licensee, inclusive of allegations that Licensee's CRNA performed procedures which the CRNA was not qualified to perform. Licensee was identified as a Neurologist, further raising concerns of collaborative practice compatibility with a CRNA. It was also discovered that Licensee allowed his license to lapse and was reinstated on August 4, 2009, with no known explanation as to why;

WHEREAS, as a result of the complaint and information on file with the Board, on May 23, 2013, Licensee was visited by an Investigator of the Board to discuss his collaborative practice. Based on the statements made by Licensee and the lack of documentation produced at the time of the interview, it was determined that Licensee had very poor insight into his responsibilities as a collaborative physician. No protocol between Licensee and his three mid-level providers could be produced to the Investigator at the time;

WHEREAS, a subsequent telephone conversation on July 30, 2013, between Licensee and another Investigator of the Board revealed further confusion on the part of Licensee

regarding his responsibilities as a collaborative physician, failure to properly indicate whether Licensee was the primary collaborative physician or secondarily responsible for his mid-level providers, per his recently submitted license renewal, and a complete lack of knowledge regarding the identity of the back-up physicians for his mid-level providers. Licensee also admitted to failing to craft a proper protocol, even after an in-clinic visit from an Investigator of the Board. Lastly, it was discovered that, depending on where Licensee practiced on a given workday, an unapproved free standing clinic was created based on the various distances between Licensee and each mid-level provider who would be practicing outside of the 15 mile radius from Licensee's primary practice location;

WHEREAS, additional information was obtained from a patient of Licensee's CRNA which indicated the CRNA identified himself as a doctor to the patient and, further, identified himself as an Anesthesiologist. When questioned about any prescriptions obtained, it was also discovered that the patient was issued prescriptions by Licensee when Licensee was not the provider who saw the patient;

WHEREAS, as a result of the concerns regarding Licensee's collaborative practice, Licensee appeared before the Executive Committee of the Board on September 19, 2013, to address the various issues identified by the Board. During the course of the meeting, and after deliberation by the Executive Committee, it was determined that Licensee should be offered the opportunity to enter into a consent agreement placing certain restrictions on his Mississippi medical license, thereby avoiding an evidentiary hearing before the Board;

WHEREAS, by virtue of the aforementioned information regarding Licensee's collaborative practice, and Licensee's practice of medicine in general, Licensee is in violation of the Board's Administrative Code, specifically Title 30: Part 2630, Chapter 1:

Collaboration/Consultation with Nurse Practitioners, and is in violation of the Mississippi Medical Practice Act, specifically Subsection (3), (8)(d), (8)(f), and (13), of Miss. Code Ann. § 73-25-29 (1972), for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

WHEREAS, it is the desire of Licensee to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, Licensee has agreed to enter into a Consent Order which would, upon acceptance by the Board, avoid a formal disciplinary hearing before the Board;

WHEREAS, the Board, after due consideration, is of the opinion that it should enter into this Consent Order, which is consistent with the recommendations of the Executive Committee of the Board.

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with the consent of Licensee, as signified by his joinder herein, agrees to the following:

1. Licensee is hereby **restricted** from collaborating with, and shall not collaborate with any mid-level provider, including, but not limited to: A.P.R.N.s, C.R.N.A.s, and P.A.s. This restriction shall remain in full force and effect for a minimum of **one year**. Upon the expiration of the one year period, Licensee shall have the right, but not the obligation, to petition the Board for removal of the restriction.
2. Prior to petitioning the Board for removal of the restriction, Licensee must complete a Category 1 AMA approved course in the **Prescribing of Controlled Substances** and must submit proof of successful completion to the Board. This course will be in addition to, and will not count towards, the requisite 40 hours of CME required by the Administrative Code of the Board.

3. 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 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.

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.

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.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. § 73-25-27, 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 Kent Ozon, 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, subject to those terms and conditions listed above.

EXECUTED this the _____ day of October, 2013.

Robert Kent Ozon, M.D.

ACCEPTED AND APPROVED this the _____day of November, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D., President
Mississippi State Board of Medical Licensure

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **David Mark Gilder, M.D.,** have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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 18 day of September, 2013.

D Gilder MD

LICENSEE

Witness: Sherry Pilgrim

David Gilder MD

NAME PRINTED

AGREEMENT TO APPEAR INFORMALLY BEFORE EXECUTIVE COMMITTEE BY CURRENT LICENSEE

I, **Stephen Lawrence Chouteau, M.D.**, have been asked to appear informally before the Executive Committee of the Mississippi State Board of Medical Licensure (hereinafter "Board") to discuss issues which may relate to my practice and possible 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:_____)

_X_ without legal counsel present

EXECUTED, this the 18 day of September, 2013.

Stephen Chouteau
LICENSEE

Witness: Sherry Pilgrim

STEPHEN CHOUTEAU
NAME PRINTED

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 19, 2013

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, September 19, 2013, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
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
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Sherry H. Pilgrim, Staff Officer
Wesley Breland, Hattiesburg, Consumer Health Committee

Not present:

William S. Mayo, D.O., Oxford
Charles Thomas, Yazoo City, Consumer Health Committee

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

Dr. Easterling asked for opening remarks and announcements. Dr. Chance advised that the Advisory Committee for the Prescription Monitoring Program (PMP) met yesterday and that the new software will be available October 9, 2013. Dr. Chance advised that if you are already using the program, it will be a simple update only. Also,

Dr. Chance advised that a message will go out to all licensees prior to the October 9, 2013, deadline.

Dr. Easterling recognized Dr. Brunson as being elected the President Elect of the Mississippi State Medical Association.

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

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD JULY 01, 2013, THROUGH AUGUST 31, 2013

Two hundred twenty-five (225) licenses were certified to other entities for the period July 01, 2013, through August 31, 2013. Motion was made by Dr. Crawford, seconded by Dr. Brunson, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD JULY 01, 2013, THROUGH AUGUST 31, 2013

One hundred fifty-one (151) licenses were issued for the period July 01, 2013, through August 31, 2013. Motion was made by Dr. Brunson, seconded by Dr. Crawford, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED JULY 17, 2013, AND MINUTES OF THE BOARD MEETING DATED JULY 18, 2013

Minutes of the Executive Committee meeting dated July 17, 2013, and Minutes of the Board meeting dated July 18, 2013, were reviewed. Dr. Crawford moved for approval of the minutes as submitted. Dr. Chance seconded the motion, and it carried unanimously.

REPORT OF SEPTEMBER 18, 2013, EXECUTIVE COMMITTEE MEETING

Dr. Craig advised that before the reports on yesterday's meeting that he needs to recognize Rhonda Freeman, Bureau Director, Licensure Division, for twenty (20) years of service with the agency. Ms. Freeman was presented with a clock by Dr. Craig.

Also, Dr. Craig introduced Erica Jones. Ms. Jones is the new secretary for the Investigative Division.

Dr. Craig advised that the Executive Committee met yesterday and that several issues were discussed and there were two proposed consent orders that require the Board's approval. After a brief discussion, motion was made by Dr. Crawford,

seconded by Dr. Miles, and carried that the Board enter into Executive Session to discuss possible disciplinary action from the Executive Committee meeting.

Upon a motion by Dr. Chance, seconded by Dr. Crawford, the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that the Board voted to approve the Executive Committee's decision to issue the proposed consent orders for Dr. Cummins and Dr. Ozon, and that a non-public letter of concern would be sent to PA Daggett.

Dr. Craig briefly covered the remainder of the Executive Committee meeting and the appearances and issues that were discussed. Information pertaining to the Executive Committee decisions is included in the Executive Committee Minutes dated September 18, 2013.

Motion was made by Dr. Chance, seconded by Dr. Miles, and carried unanimously to accept the remainder of recommendations from the Executive Committee.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Brunson (Chair), Dr. Easterling, Dr. Jones, Dr. Chance, Dr. Miles, Mr. Thomas

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

Professionals Health Program - Dr. Chance (Chair), Dr. Crawford, Dr. Aycock

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

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

Dr. Easterling advised there was no new information to report. The discussion on the regulations that are listed on the agenda will be discussed later.

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

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

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

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

Licensure Process - Dr. Brunson (Chair), Dr. Craig, Ms. Freeman

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

PRESENTATION BY VICTOR WHITE, MEDICAL RADIOGRAPHY PROGRAM CHAIRPERSON AT BAPTIST COLLEGE OF HEALTH SCIENCES IN MEMPHIS, TN., CONCERNING THE BOARD'S REGULATION ON LIMITED X-RAY MACHINE OPERATORS (THE REGULATION WAS PROPOSED AT THE JULY BOARD MEETING AND IS XVIII TO BE CONSIDERED FOR FINAL ADOPTION.)

Dr. Craig advised that last year the legislature passed law concerning limited x-ray machine operators and that Mr. White was here to make a presentation concerning their program and request that the Board accept their training program.

Mr. White addressed the Board and thanked them for allowing him the opportunity to make the presentation and cover their requirements in the program. Mr. White advised that he has been working with the Mississippi State Medical Association to ensure that their program meets all of Mississippi's requirements.

Following a very informative presentation covering the curriculum for the program in Memphis, Mr. White opened the floor for questions. After a brief discussion, Dr. Easterling thanked Mr. White for coming and advised him that the Board would discuss his request and advise him of the outcome.

After a brief discussion, motion was made by Dr. Miles, seconded by Dr. Jones, and carried unanimously that the Board approve the training at Baptist College of Health Sciences in Memphis, TN, concerning Limited X-Ray Machine Operators (LXMO).

PERSONAL APPEARANCE BY ZIZHUANG LI, M.D., LEAWOOD, KS, MISSISSIPPI MEDICAL LICENSE NUMBER 20022

Dr. Craig advised that Dr. Li has been under a consent order and has met all the requirements. Dr. Craig advised that Dr. Li is eligible to appear and request the lifting of the year suspension and removal of all restrictions.

Dr. Li joined the meeting and was introduced by Stan Ingram, Complaint Counsel for the Board. Dr. Li was not represented by legal counsel. In Ms. O'Neal's absence, Mr. Ingram questioned Dr. Li regarding his right to legal representation. Dr. Li stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram advised that Dr. Li was here today to request that the Board lift the suspension and remove all restrictions from his medical license since he has complied with all the requirements from his September 27, 2012, Board Order.

Several of the Board members questioned Dr. Li concerning his CME's and his plans. Motion was made by Dr. Aycock, seconded by Dr. Brunson, and carried unanimously to grant Dr. Li's request effective September 27, 2013. A copy of the Order of Licensure Reinstatement is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY KEITH O'NEIL JONES, M.D., MADISON, MISSISSIPPI MEDICAL LICENSE NUMBER 20218

Dr. Craig advised that Dr. Jones was appearing to request retroactive reinstatement of his lapsed license. Dr. Craig advised that it was mid-August before Dr. Jones realized that his license had lapsed.

Dr. Jones, and his attorney, Collier Graham, were introduced to the Board by Mr. Ingram. Mr. Graham addressed the Board and stated that Dr. Jones had relied on the hospital to renew his license, as in the past, and somehow his license had lapsed for six (6) weeks before he was made aware. Mr. Graham advised that Miss Code Ann 73-25-14(6), provided that the physician can petition the Board for reinstatement of their license on a retroactive basis and that is what Dr. Jones is requesting.

Dr. Jones addressed the Board and apologized and explained what happened. Dr. Jones stated that there are now steps in place to ensure that it doesn't happen in the future for any of the Baptist physicians. Dr. Jones requested that his renewal be retroactive and explained the consequences for him and the hospital in the event his request is not granted.

Following several questions from Board members, motion was made by Dr. Aycock, seconded by Dr. Crawford, and carried unanimously to grant Dr. Jones' request. A copy of the Order is attached hereto and incorporated by reference.

HEARING IN THE CASE OF SHARON JOENELLE COLLINS, M.D., TYLERTOWN, MISSISSIPPI MEDICAL LICENSE NUMBER 12466

Dr. Collins was not present or represented by legal counsel.

Mr. Ingram addressed the Board and advised that through Dr. Collins' attorney, Robert Gholson, that they were requesting a continuance.

Motion was made by Dr. Miles, seconded by Dr. Crawford, and carried

unanimously to grant the continuance until the next scheduled meeting of the Board. A copy of the Order of Continuance is attached hereto and incorporated by reference.

HEARING IN THE CASE OF MICHELLE QUYNH CHI LAI, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 20803

Dr. Lai was not present or represented by legal counsel.

Mr. Ingram addressed the Board and advised that he was requesting a continuance due to a conflict with the Board's expert witness today.

Motion was made by Dr. Chance, seconded by Dr. Merideth, and carried unanimously to grant the continuance until the next scheduled meeting of the Board. A copy of the Order of Continuance is attached hereto and incorporated by reference.

HEARING IN THE CASE OF JOHN PETER LOUWERENS, M.D., GREENVILLE, MISSISSIPPI MEDICAL LICENSE NUMBER 09506

Dr. Craig advised that in lieu of a hearing before the Board, that Dr. Louwerens had requested a settlement conference. Dr. Craig provided a summary of the summons and affidavit that had been served on Dr. Louwerens. Dr. Craig advised that after the settlement conference Dr. Louwerens was sent a proposed consent order which he has signed and returned back to the Board for approval. Dr. Craig advised that basically the proposed consent order will suspend Dr. Louwerens' license for one (1) year with the suspension stayed, subject to terms and conditions.

Following a brief discussion, motion was made by Dr. Chance, seconded by Dr. Jones, and carried that the Board approve the consent order issued to Dr. Louwerens. A copy of the consent order is attached hereto and incorporated by reference.

Dr. Easterling requested that Dr. Craig research and see what rules and regulations he can obtain dealing with hospice and who controls the medications once an individual passes away.

UPDATE ON JAMES BENJAMIN BURKE, M.D., NATCHEZ, MISSISSIPPI MEDICAL LICENSE NUMBER 20064

For informational purposes only, Dr. Craig covered a request from Dr. Burke requesting the Board's approval for a change in his employment. Dr. Craig advised that he has already sent an approval confirmation and this is for information only.

NOTICE OF APPEAL FILED BY VICTOR ZUCKERMAN, D.O., WEST MONROE, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 22261

For informational purposes, Mr. Ingram advised that Dr. Zuckerman had been summoned for a hearing before the Board in July and failed to respond to the summons and affidavit, as well as failed to appear for his hearing or request a continuance. Mr. Ingram advised that Dr. Zuckerman has retained counsel and has now filed an appeal to the Chancery Court of Hinds County.

FINAL ADOPTION TO REGULATION CONCERNING LIMITED X-RAY MACHINE OPERATOR / COMMENTS RECEIVED

Dr. Craig covered the regulation and comments that have been received by the Board. Dr. Craig advised that one (1) of the comments is from MidSouth Pain Treatment Center requesting a "grandfather" clause to cover a couple of their employees. Dr. Craig advised the request has to do with the individuals moving the c-arm which is not included. Following a brief discussion, the Board agreed that the limited x-ray machine operator can move the c-arm, but can not activate it.

Motion was made by Dr. Brunson, seconded by Dr. Miles, and carried unanimously of the Board's intent to final adopt the regulation concerning limited x-ray machine operators as originally written. 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.

PROPOSED REGULATION CONCERNING THE PRACTICE OF ACUPUNCTURE

Dr. Craig briefly discussed the proposed regulation concerning the practice of acupuncture and stated that it is being amended to include the criminal background check.

Motion was made by Dr. Miles, seconded by Dr. Jones, and carried unanimously of the Board's intent to amend the regulation concerning the practice of acupuncture. A copy of the amended regulation is attached hereto and incorporated by reference. The amended regulation will be filed with the Secretary of State under the Administrative Procedures Act.

PHYSICIAN ASSISTANTS LICENSE EXPIRATION 06/30/2013 AND PHYSICIANS LICENSE EXPIRATION 06/30/2013

For informational purposes, Dr. Craig advised the list of physician assistants and physicians not renewing their Mississippi medical license by 6/30/2013 was

attached for their review and information.

BOARD'S 5 YEAR STRATEGIC PLAN

For informational purposes, Dr. Craig advised that a copy of the Board's 5 year strategic plan was included for their review.

OTHER BUSINESS

REQUEST FROM CEDAR LAKE SURGERY CENTER FOR APPROVAL OF THEIR POLICY ON WOUND CLOSURE BY SURGICAL TECHNICIANS

Dr. Craig covered a request that the Board has received from Cedar Lake Surgery Center allowing surgical technicians to perform wound closures. Dr. Craig feels this is the practice of medicine. After a brief discussion, the Board agreed that the proposal as submitted is acceptable as long as training in a first assistant/wound closure program has been documented to their file and is only performed under the direct supervision of the physician who assumes the responsibility.

PROPOSED CONSENT ORDER FOR MARGARET L. MEREDITH, DPM, McCOMB, MISSISSIPPI MEDICAL LICENSE NUMBER 80192, MIRRORING ACTION TAKEN BY THE VIRGINIA BOARD OF MEDICINE

Dr. Craig discussed a proposed consent order that had been sent to Dr. Meredith mirroring action taken by the Virginia Board of Medicine. Dr. Craig advised that Dr. Meredith had returned the signed proposal and was requesting the Board's approval.

After a brief discussion, motion was made by Dr. Chance, seconded by Dr. Crawford, and carried unanimously to approve the proposed consent order. A copy of the consent order is attached hereto and incorporated by reference.

NOTIFICATION FROM CHANCERY COURT OF HINDS COUNTY CONCERNING DECISION APPEALED BY ROBERT S. CORKERN, M.D.

For informational purposes, Mr. Ingram advised that the Chancery Court of Hinds County, Judge Singletary entered a decision affirming the Board's January 24, 2013, order revoking the license of Dr. Corkern.

REQUEST FROM BETHEL FREE HEALTH CLINIC

Dr. Craig briefly discussed a letter from Bethel Free Health Clinic requesting

reciprocity for active-duty military personnel as physicians or waive the fee for obtaining licensure.

After a brief discussion concerning legislation passed this year, motion was made by Dr. Aycock, seconded by Dr. Merideth, and carried unanimously to refer the matter to the rules, regulation and legislative committee for research and to report back at the next meeting.

RECOMMENDATION FROM STAN INGRAM CONCERNING THOMAS EDWARD STURDAVANT, M.D., GULFPORT, MISSISSIPPI MEDICAL LICENSE NUMBER 16798

A special request was presented by Complaint Counsel, Stan Ingram, pertaining to the appeal of Thomas Edward Sturdavant, M.D., in the Chancery Court of the First Judicial District of Hinds County. In view of the fact that almost two years have lapsed since the order placing restrictions on Dr. Sturdavant's license, and in an effort to reduce legal fees and costs to the Board, it was recommended that the Board invite Dr. Sturdavant to appear at the November Board meeting to discuss possible resolution. After some discussion, it was the decision of the Board that Dr. Sturdavant be extended the opportunity to petition the Board for removal of restrictions. In the event such a request is granted, the appeal would be moot.

THE BOARD RECESSED AT 11:55 A.M. AND RETURNED AT 12:05 P.M.

FINAL ADOPTION TO REGULATION PERTAINING TO PRESCRIBING, ADMINISTERING AND DISPENSING OF MEDICATION (RULE 1.2 AND 1.15 PAIN MANAGEMENT) / COMMENTS RECEIVED / ARTICLE FROM NORTH CAROLINA'S BOARD PRESIDENT

Dr. Easterling briefly discussed the process the Board has been going through over the last year and the work that has been put into the regulation. Dr. Easterling advised that the Board has made several changes concerning ownership and medical director ownership. Dr. Easterling advised that he has worked closely with several pain physicians in the state as well as the Board of Nursing and pain society to name a few. Dr. Easterling advised that paragraph two (2) of a letter written to the Board dated September 17, 2013, by Richard Roberson, counsel for Rush Health Systems, is a total misinterpretation of his conversation with Mr. Strickland. Dr. Easterling continued covering several editorial changes that have been made and provided a copy to all interested. Dr. Easterling advised that the Board does not regulate hospitals and the regulation is intended for licensees of the medical board.

Dr. Easterling advised that if the Board moves to final adopt the regulation as proposed that the floor would be open for comments after the vote. Motion was made by Dr. Miles, seconded by Dr. Chance, and carried of the Board's intent to final adopt the amendment to the regulation pertaining to Prescribing, Administering and Dispensing of Medication. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

Dr. Easterling opened the floor for discussion and/or comments.

1) Mona Patel Graham, attorney for MS Association for Nurse Anesthetists addressed the Board and advised that their position is it is outside the Board's scope of structure to exclude anyone other than a physician to own a clinic. She advised that they feel the Board is dictating the ownership structure.

Dr. Easterling thanked Ms. Graham and advised that the Board has no jurisdiction over APRNs or CRNAs and that the recent editorial changes loosens the regulation.

2) Richard Roberson, attorney for Rush Health Systems, addressed the Board and discussed the September 17, 2013, letter that he had written that was discussed by Dr. Easterling. Mr. Roberson discussed concerns on the impact of the hospital and areas of the amended regulation that he sees as unclear. Also, Mr. Roberson stated that the Board's Economic Impact Statement (EIS) is legally deficient and addressed several areas of concern.

After several comments from Board members, Dr. Easterling advised that the Board has statutory authority to regulate the practice of medicine and reiterated the fact that hospitals do not have to be registered as pain management clinics, but only the physician has to be certified with the Board.

3) Steve Montagnet, attorney for the MS Nurses Association, addressed the Board and stated that they had concerns with the lack of data and methodology of the EIS. Mr. Montagnet addressed concerns with the majority of ownership of the clinics and how the regulation affects APRNs who own pain management clinics.

Dr. Easterling thanked all individuals making comments and stated that the editorial changes loosens the regulations rather than tightening them.

Following a brief discussion, motion was made by Dr. Merideth, seconded by Dr. Miles, and carried to make an editorial change to rule 1.15, number 5, and to insert in the last sentence after the word "that" the following, "treat a majority of patients who have pain as a result of terminal illness."

Dr. Easterling advised that the Board has a motion and a second and all Board members in favor of adopting the proposed regulation with the interjection of the last editorial change to so advise. All Board members voted in favor of the Board's intent to final adopt the amended regulation with the last editorial change. A copy of the final amended regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

ADJOURNMENT

There being no further business, the meeting adjourned at 1:30 p.m., with the next scheduled meeting for Wednesday, November 13, 2013, starting at 1:00 p.m., and continuing on Thursday, November 14, 2013, at 9:00 a.m.

S. RANDALL EASTERLING, M.D.
President

Minutes taken and transcribed
by Sherry H. Pilgrim
Staff Officer
September 19, 2013

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 19, 2013

AGENDA ITEM: Personal appearance by Dr. Cummins at the Executive Committee Meeting.

In a motion made by Dr. Jones, seconded by Dr. Brunson, and carried the Board approves the recommendation made by the Executive Committee concerning Dr. Christopher Cummins.

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VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Chance, seconded by Dr. Miles, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 19, 2013

AGENDA ITEM: Personal appearance by PA Daggett at the Executive Committee Meeting.

In a motion made by Dr. Crawford, seconded by Dr. Miles, and carried the Board approves the recommendation made by the Executive Committee concerning PA Katie Daggett.

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VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Chance, seconded by Dr. Miles, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
SEPTEMBER 19, 2013

AGENDA ITEM: Personal appearance by Dr. Ozon at the Executive Committee Meeting.

In a motion made by Dr. Miles, seconded by Dr. Crawford, and carried the Board approves the recommendation made by the Executive Committee concerning Dr. Robert Ozon.

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VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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. Chance, seconded by Dr. Miles, the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIANS'S LICENSE

OF

ZIZHUANG LI, M.D.

ORDER OF LICENSURE REINSTATEMENT

THIS MATTER came on regularly for consideration on September 19, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of, Zizhuang Li, M.D., (hereinafter "Licensee"), seeking authorization to return to practice and removal of restrictions on his license. By virtue of that certain Determination and Order dated September 27, 2012, Licensee's certificate to practice medicine in the state of Mississippi was suspended for a period of twelve (12) months, during which time Licensee was directed to enroll and successfully complete certain continuing medical education courses. The action was taken based on violation of the Rules and Regulations of the Board "Pertaining to Prescribing, Administering and Dispensing of Medication," and administering, dispensing or prescribing narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, otherwise than in the course of legitimate professional practice.

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. Based upon the evidence and testimony presented, the Board finds Licensee's petition be well-taken.

THEREFORE, IT IS HEREBY ORDERED, that Licensee's request for lifting the suspension and removal of all restrictions is hereby granted, effective September 27, 2013. Licensee now holds an unrestricted license to practice medicine in the state of Mississippi, effective September 27, 2013.

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

ORDERED, this the 19th day of September 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____
S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

KEITH O'NEIL JONES, M.D.

ORDER

THIS MATTER came on regularly for hearing on September 19, 2013, before the Mississippi State Board of Medical Licensure, in response to the petition of Keith O'Neil Jones, M.D., (hereinafter "Licensee") seeking Retroactive Reinstatement of his lapsed medical License in the state of Mississippi. The petition was filed pursuant to authority granted in Miss. Code Ann. §73-25-14(6). Licensee was present, represented by D. Collier Graham, Jr. Upon consideration of the evidence and testimony presented, the Board finds Licensee's petition to be well taken.

THEREFORE, IT IS HEREBY ORDERED, that pursuant to Miss Code Ann. §73-25-14 (6), License No. 20218, issued to Keith O'Neil Jones, M.D., is hereby reinstated on a retroactive basis effective July 1, 2013.

SO ORDERED, this the 19th day of September, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

SHARON JOENELLE COLLINS, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on September 19, 2013, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Sharon Joenelle Collins, M.D. (hereinafter "Licensee") through her attorney, Robert D. Gholson. 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 the next regularly scheduled Board meeting.

SO ORDERED, this the 19th day of September, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MICHELLE QUYNH CHI LAI, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on September 19, 2013, before the Mississippi State Board of Medical Licensure in response to a request filed by Board Counsel, Stan Ingram for a continuance of the hearing set for this date. After consideration of the matter, the Board finds the motion to be well taken.

IT IS, THEREFORE, ORDERED, that this matter is continued until the next regularly scheduled Board meeting.

SO ORDERED, this the 19th day of September 19, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

JOHN PETER LOUWERENS, M.D.

CONSENT ORDER

WHEREAS, John Peter Louwerens, M.D., hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License Number 09506, and said license is current until June 30, 2014;

WHEREAS, the Investigative Staff of the Mississippi State Board of Medical Licensure conducted a comprehensive investigation into the medical practice of Licensee in Cleveland, Mississippi, and the surrounding area, and has documented evidence indicating that Licensee has violated the rules and regulations of the Board, "Pertaining to Prescribing, Administering and Dispensing of Medication," and has administered, dispensed or prescribed 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), (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 Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions placed 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. 09506) to practice medicine in the State of Mississippi for a period of one (1) year, with the **suspension stayed**, subject to the following terms and conditions, to-wit:

1. Within six (6) months of the effective date of this Order, Dr. Louwerens shall attend and complete courses designated as American Medical Association approved, Category I Continuing Medical Education (CME) in the following areas: 1) proper prescribing of controlled substances and, 2) proper medical record keeping; with said courses approved, in advance, by the Executive Director of the Board. Licensee shall attend in-person the approved structured courses as said courses will not be by correspondence, internet/remote access, or independent study. Following completion of these courses, Licensee shall submit to the Board documentary proof of successful completion. Any credits obtained pursuant to this requirement shall be in addition to the biennial forty (40) hours of Category I CME credits as cited in Part 2610 Chapter 2 of the Board's Rules and Regulations.
2. Licensee's practice of medicine shall be subject to periodic surveillance by the Mississippi State Board of Medical Licensure to monitor compliance with the rules and regulations of the Board as well as this Consent Order. The Board's Director, any member of the Board, or Investigative staff may perform an unannounced inspection of any clinic wherein Licensee practices, which may include a chart review of selected patient files.
3. Notwithstanding the one (1) year period of stayed suspension as enumerated above, Licensee shall not be permitted to practice in a hospice, directly or indirectly, in a facility or home care for a period of two (2) years from the date of this Consent Order.

4. 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 (40) days from the date the assessment is mailed via U.S. Mail to Licensee's current primary practice location.

5. Violation of any provision(s) of the Medical Practice Act, the Mississippi Controlled Substances Law, the rules and regulations of the Board, or any provision of this order, shall be grounds for immediate lifting of the stay as provided herein and suspension of license for a period of one (1) year from date of the offense.

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 the 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 further proceeding.

Acceptance and entry of this Consent Order shall constitute a full and complete resolution of all charges now pending against Licensee before the Board.

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 National Practitioner Data Bank and 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, John Peter Louwerens, M.D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter this Consent Order, thereby suspending his license to practice medicine in the State of Mississippi for a period of one (1) year from date of Board acceptance, with the **suspension stayed**, subject to those terms and conditions enumerated above.

Executed, this the 13 day of September, 2013.

John Peter Louwerens, M.D.

ACCEPTED AND APPROVED, this the 19th day of September 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
President

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	09/20/13	Part 2621 Chapter 1: Limited X-Ray Machine Operator		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This is a new rule based on legislation which requires the Board to permit limited x-ray machine operators.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	Action proposed:	Date Proposed Rule Filed: 07/22/2013
____ Renewal of effectiveness	____ New rule(s)	Action taken:
To be in effect in ____ days	____ Amendment to existing rule(s)	__X__ Adopted with no changes in text
Effective date:	____ Repeal of existing rule(s)	____ Adopted with changes
____ Immediately upon filing	____ Adoption by reference	____ Adopted by reference
____ Other (specify): ____	Proposed final effective date:	____ Withdrawn
	____ 30 days after filing	____ Repeal adopted as proposed
	____ Other (specify): ____	Effective date:
		__X__ 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
		FILED SEP 20 2013 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	Accepted for filing by	Accepted for filing by #20054

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

Part 2621: Limited X-Ray Machine Operator

Part 2621 Chapter 1: Limited X-ray Machine Operator

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

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

Rule 1.2 Definitions.

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

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

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

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

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

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

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

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

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

C. a renewal fee as prescribed by the Board.

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

Adopted September 19, 2013.

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	09/24/13	Part 2625 Chapter 1: The Practice of Acupuncture		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This is a new rule based on HB 1162 adopted in 2013 which amends MS Code 73-71-19 to require the Board to perform background checks on applicants for acupuncture.

Specific legal authority authorizing the promulgation of rule: HB 1162 – 73-71-19

List all rules repealed, amended, or suspended by the proposed rule: N/A

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

_____ Original filing
_____ Renewal of effectiveness
To be in effect in _____ days
Effective date:
_____ Immediately upon filing
_____ Other (specify): _____

PROPOSED ACTION ON RULES

Action proposed:
_____ New rule(s)
__X__ Amendment to existing rule(s)
_____ Repeal of existing rule(s)
_____ Adoption by reference
Proposed final effective date:
__X__ 30 days after filing
_____ Other (specify): _____

FINAL ACTION ON RULES

Date Proposed Rule Filed: _____
Action taken:
_____ Adopted with no changes in text
_____ Adopted with changes
_____ Adopted by reference
_____ Withdrawn
_____ Repeal adopted as proposed
Effective date:
_____ 30 days after filing
_____ Other (specify): _____

Printed name and Title of person authorized to file rules: Rhonda Freeman, 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
	FILED SEP 24 2013 MISSISSIPPI SECRETARY OF STATE	
Accepted for filing by	Accepted for filing by #20058	Accepted for filing by

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

Part 2625: Chapter 1 The Practice of Acupuncture

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

A. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
B. Satisfy the Board that he or she is a citizen or permanent resident of the United States of America.
C. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
D. Pay the appropriate fee as determined by the Board.
E. Present a certified copy of birth certificate or valid and current passport.
F. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
G. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.
H. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.
I. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.
J. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
    1. If taken before June 1, 2004, pass the Comprehensive Written Exam (CWE), the Clean Needle Technique portion (CNTP), and the Practical Examination of Point Location Skills (PEPLS).
    2. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
    3. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
K. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
    1. Passage of the NCCAOM examination taken in English.
    2. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
    3. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.

4. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.

L. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.

M. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.

N. Provide proof of malpractice insurance with a minimum of $1 million dollars in coverage.

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

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

Part 2625: Chapter 1 The Practice of Acupuncture

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D. Pay the appropriate fee as determined by the Board.
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F. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
G. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.
H. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.
I. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.
J. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
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    2. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
    3. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
K. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
    1. Passage of the NCCAOM examination taken in English.
    2. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
    3. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.

4. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.

L. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.

M. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.

N. Provide proof of malpractice insurance with a minimum of $1 million dollars in coverage.

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

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

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

MARGARET LITTLE MEREDITH, D.P.M.

CONSENT ORDER

WHEREAS, Margaret Little Meredith, D.P.M., hereinafter referred to as "Licensee," is the current holder of License No. 80192, issued August 12, 2008, for the practice of podiatry medicine in the State of Mississippi;

WHEREAS, following an investigation by the Virginia Board of Medicine, Licensee was found in violation of Virginia laws, rules and regulations governing the practice of podiatric medicine in that state. Specifically, it was determined on multiple occasions from 1992 through 2001, and 2008 through 2011, Licensee prescribed controlled substances, including but not limited to Percocet/Endocet (oxycodone, Schedule II), Fiorinal #3 (butalbital with codeine, Schedule III), Lorcet/Vicoprofen (hydrocodone, Schedule III), and Soma (carisoprodol, Schedule VI), to Patient "A" for complaints of chronic foot pain, although Licensee knew or should have known that the patient was abusing or had become addicted to or dependent upon the medications. Further, Licensee failed to address or document that the patient had signs and symptoms of escalation or abuse of narcotic therapies, nor did Licensee appropriately refer Patient "A" for treatment of substance abuse. According to Licensee's progress notes, Patient "A" reported losing her medications on at least eleven occasions and on one occasion she stated

that a family member stole her medications. Additionally, on multiple occasions Patient "A" reported taking more medication than prescribed and/or running out of medication early. On or about May 18, 2011, Patient "A" lost consciousness and was diagnosed with acute toxic encephalopathy with respiratory failure due to polydrug overdose. Patient "A" subsequently underwent inpatient treatment for addiction to prescription medications;

WHEREAS, in addition, the Virginia Board of Medicine determined that Licensee was in violation of Virginia laws, rules and regulations governing the practice of podiatric medicine as a result of Licensee failing to record the number of dosage units prescribed and dosing instructions for medications prescribed to the same patient, including but not limited to, medications prescribed through telephone orders while Licensee's primary practice location was in Mississippi;

WHEREAS, as a result of the above violations governing the practice of podiatry in the State of Virginia, Licensee was issued a Consent Order REPRIMAND, by the Virginia Board of Medicine subject to the following Terms and Conditions:

> 1. Within thirty (30) days from entry of [the Virginia Consent] Order, Dr. Meredith shall provide the Board with a written statement certifying that she has read and will comply with: (I) the Drug Laws for Practitioners, and (ii) Guidance Document 85-24 regarding the use of controlled substances for treatment of pain.
>
> 2. Within six (6) months from entry of [the Virginia Consent] Order, Dr. Meredith shall submit evidence satisfactory to the Board verifying that she has completed ten (10) hours of Board-approved continuing medical education ("CME") in the subject of pain management. Such CME shall be approved in advance of registration by the Executive Director of the Board, and shall be completed through face-to-face, interactive sessions (i.e., no home study, journal, or Internet courses). Any CME hours obtained in

compliance with this term shall not be used toward compliance with the Board's continuing education requirements for license renewal.

3. Within six (6) months from entry of [the Virginia Consent] Order, Dr. Meredith shall submit evidence satisfactory to the Board verifying that she has completed (10) hours of Board-approved continuing medical education ("CME") in the subject of medical record keeping. Such CME shall be approved in advanced of registration by the Executive Director of the Board, and shall be completed through face-to-face, interactive sessions (i.e. no home study, journal, or Internet Courses). Any CME hours obtained in compliance with this term shall not be used toward compliance with the Board=s continuing education requirements for license renewal.

4. Upon receipt of evidence that Dr. Meredith has complied with the requirements of [the Virginia Consent] Order, the Committee authorizes the Executive Director to close this matter, or refer it to a special conference committee for review.

WHEREAS, pursuant to Subsections (8)(d) and (9) of Miss Code Ann., Section 73-25-29 (1972), the aforementioned actions by the Virginia Board of Medicine constitute restrictions placed on her license in another jurisdiction, grounds for which the Mississippi State Board of Medical Licensure may revoke the Mississippi podiatric medical license of Licensee, suspend her right to practice for a time deemed proper by the Board, place her license on probation, the terms of which may be set by the Board, or take any other action in relation to her 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 the issuance of a public reprimand by the Mississippi State Board of Medical Licensure;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with the consent of Licensee as signified by her joinder herein, does hereby order that this Consent Order shall constitute a Public Reprimand of Licensee, and that Licensee is hereby reprimanded, subject to the following terms and conditions:

1. Licensee shall comply with all terms and conditions of the aforementioned Consent Order entered by the Virginia Board of Medicine.

2. 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:

   a) Licensee shall maintain a complete record of her 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.

3. Licensee shall thoroughly familiarize herself with said rules and regulations and shall so indicate to the Board in writing within thirty (30) days of approval of this Consent Order.

4. 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.

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

this 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 Virginia Board of Medicine 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., 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 the assessment is mailed via U.S. Mail to Licensee's current primary practice location as entered in her licensure file.

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 her right to notice of charges specified against her, to have such charges adjudicated pursuant to Miss. Code Ann. Section 73-25-27, 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, Margaret Little Meredith, D.P.M., nonetheless, hereby waives her right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order.

Executed, this the 17th, day of September, 2013.

Margaret L. Meredith, D.P.M.

Margaret L. Meredith, D.P.M.

ACCEPTED AND APPROVED, this the 19th, day of September, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
President

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	9/24/13	Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication, Rule 1.2 and 1.15		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Rule 1.2 and 1.15 was modified to define owner(s)/operator(s) in pain management practices and to include rules for those operating the practice.

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

List all rules repealed, amended, or suspended by the proposed rule: N/A

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

_____ Original filing
_____ Renewal of effectiveness
To be in effect in _____ days
Effective date:
_____ Immediately upon filing
_____ Other (specify): _____

PROPOSED ACTION ON RULES

Action proposed:
_____ New rule(s)
_____ Amendment to existing rule(s)
_____ Repeal of existing rule(s)
_____ Adoption by reference
Proposed final effective date:
_____ 30 days after filing
_____ Other (specify): _____

FINAL ACTION ON RULES

Date Proposed Rule Filed: 07/24/2013
Action taken:
_____ Adopted with no changes in text
__X__ Adopted with changes
_____ Adopted by reference
_____ Withdrawn
_____ Repeal adopted as proposed
Effective date:
__X__ 30 days after filing
_____ Other (specify): _____

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

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		FILED SEP 24 2013 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	Accepted for filing by	Accepted for filing by #20059

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

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.
G. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within

Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter

packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts
A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.

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

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

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

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

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

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

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

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

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

As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, order, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of

weight reduction based on caloric restriction, provided the physician complies with the following and that all of the following conditions are met:

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of $\geq$ 30.0 in a normal otherwise healthy patient, or a BMI $\geq$ 27.0 in an individual with at least one associated co-morbidity, or current body weight $\geq$ 120 percent of a well documented, long standin g healthy weight that the patient maintained after the age of 18, or body fat 30% in females, or body fat $\geq$ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.

D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.

E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation

once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.

F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.

G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-

approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

F. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other

drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or

continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.

F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

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

   It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.
2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will

be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.

3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances

prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

   Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

G. A prescription shall no longer be valid after the occurrence of any one of the following events:
   1. Thirty (30) days after the death of the issuing physician.
   2. Thirty (30) days after the issuing physician has moved or otherwise changed the location of his or her practice so as to terminate the doctor/patient relationship. Termination of the doctor/patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing physician.

3. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
4. Immediately after revocation, suspension or surrender of the physician's license.

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

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

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

Rule 1.14 Security of Controlled Substances. In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are

maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Medical Practice.

A. Definitions. For the purpose of Part 2640, Rule 1.15 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Medical Practice" is defined as a public or privately owned medical practice that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) at which the majority of the patients are treated for pain as a result of a terminal illness.

B. The physician owner(s)/operator(s) of the pain management medical practice must possess and maintain a majority ownership (more than 50%) of the pain management medical practice and shall register the practice with the Board. No physician may practice in a pain management medical practice unless that practice is majority owned (over 50 %) by a physician or physicians, unless exempted under A.5 above. A hospital or hospital-system owned pain management practice is exempt from the majority ownership requirement. A physician or medical director who owns, operates or is employed in any pain management medical practice must meet the requirements set forth below.

C. Application for Initial Registration and Renewal. A physician owner(s)/operator(s) of the pain practice must:
   1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
   2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
   3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
   4. report any changes of information provided in the application for registration or renewal within 30 days.

D. Physician owner(s)/operator(s) may not operate a pain management practice in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure. Certificates, once issued, are not transferable or assignable. Only the primary physician owner is required to register with the Board if there is more than one physician owner of the practice. Each practice requires a separate certificate.

E. Physician owner(s)/operator(s) or employees may not operate in Mississippi unless the practice is owned 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 that is not designated as limited, retired, temporary, or in-training; and
   3. holds a certificate of registration for that pain management practice.

F. In addition, the physician owner(s)/operator(s) of a pain management practice, a physician or physician assistant employee of the practice or a physician or physician assistant with whom the physician owner(s)/operator(s) of a practice contracts for services may not:
   1. have been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
   2. have held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted;
   3. have been subject to a disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying or selling a controlled substance; or
   4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. No physician or physician assistant may practice in a pain management medical practice who has been convicted of, pled nolo contendere to or received deferred adjudication for:
   1. an offense that constitutes a felony; or
   2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Medical Practices. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:

1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management.

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

I. Physicians and physician assistants practicing in a registered pain practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on the initial visit and at intervals deemed appropriate for good patient care from the MPMP for every patient receiving controlled substances in a registered pain management practice.

J. Requirements for Physician Assistants Practicing in Pain Management Medical Practices. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:

1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
2. Physician assistants with approved prescriptive authority must obtain 15 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain practice;
3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. Notwithstanding, this does not prohibit a MPHP participant from working in a pain practice.

L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner(s)/operator(s) must reapply for an original certificate. The physician owner(s)/operator(s) of the practice shall post the certificate in a conspicuous location so as to be clearly visible to patients. The practice may not continue to operate while the certificate has expired.

M. The Board shall have the authority to inspect a pain management practice. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.

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

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

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

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

A. "Administer", "Controlled Substances", and "Ultimate User" shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.

B. "Physician" means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

C. "Prescribe" means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.

D. "Dispense" means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

E. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.6.B, "Dispensing Physician" means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.

F. "Prescription Drug" or "Legend Drug" means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; "Caution: Federal law prohibits dispensing without prescription," or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.

H. "Bariatric Medicine/Medical Weight Loss Clinic" means a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within

Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

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

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

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

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

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

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

Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter

packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:

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

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

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

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

A determination as to whether a "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 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. Rosenburg**, 515 F.2d 190 (9th Cir. 1975). One of primary importance is the failure to follow at least the minimal professional procedures. Some of the factors used in determining the existence of "good faith" may include, but are not limited to: (a) the physician's permitting the patient to name the drug desired; (b) a physician dispensing drugs to patients having no medical need, when the physician knew or should have known that the patients were addicts; (c) repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken; (d) general remarks of the physician indicating his or her experience with non-therapeutic uses of the drug; (e) a physician prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts
A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.

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

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

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

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

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

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

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

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

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

As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, order, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of

weight reduction based on caloric restriction, provided the physician complies with the following and that all of the following conditions are met:

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing physician and/or mid-level provider prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:
   1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological (GYN) history if female, review of systems, allergies and medications.
   2. Height, weight, Body Mass Index (BMI), blood pressure, pulse, % body fat or waist circumference/weight hip ratio, HEENT, chest, heart, abdomen, extremities.
   3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60
   4. The patient should have a BMI of≥ 30.0 in a normal otherwise healthy patient, or a BMI ≥ 27.0 in an individual with at least one associated co-morbidity, or current body weight ≥ 120 percent of a well documented, long standing healthy weight that the patient maintained after the age of 18, or body fat 30% in females, or body fat ≥ 25% in males, or waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity.
   5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with physician prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the physician.

B. The physician shall not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.

C. The physician shall not initiate or discontinue utilizing controlled scheduled weight loss medication if the patient is in active detoxification and/or withdrawal from an addictive substance/ alcohol.

D. A physician cannot prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30 day supply.

E. A patient continued on a controlled substance in schedule III, IV, V for the purpose of weight reduction or the treatment of obesity should undergo an in-person re-evaluation

once every 30 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, it is strongly recommended that reduced dosing and drug holidays be implemented for those patients who need maintenance medication.

F. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances in schedule III, IV or V should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.

G. A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

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

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

Rule 1.6 Bariatric Medicine/Medical Weight Loss Clinics

A. A Bariatric Medicine/Medical Weight Loss Clinic is defined as a public or privately owned facility for which 30% or more of the patients are provided a comprehensive weight management treatment program. Advertised medical weight loss must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, dispensing and/or prescribing FDA-

approved medications as indicated for weight loss on a monthly basis as part of the patient's treatment plan.

B. The physician owner/operator of the bariatric medicine/medical weight loss clinic shall register with the MSBML. The form to register is attached hereto (Appendix F). Certificates once issued are not transferable or assignable. Only the primary physician and/or clinic are required to register with the Board. All physicians associated with the clinic whether in the capacity as the owner or as a practitioner should be listed on the application and must also be required to meet all regulations governing the treatment of obesity/medical weight loss. All physicians who are added or removed from the clinic once a certificate is issued must be reported to the MSBML for approval. Each clinic requires a separate certificate.

C. A bariatric medicine/medical weight loss clinic may not operate in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure.

D. Certificates are valid for one year and must be renewed annually along with practitioner's license to practice medicine in the state of Mississippi. There is a 30-day grace period for renewal after which the owner/operator must reapply for an original certificate. The clinic may not continue to operate while the certificate is expired.

E. If a physician's practice is 30% or greater in bariatric medicine, advertising medical weight loss, or overseeing/collaborating with a nurse practitioner or physician assistant to provide comprehensive treatment of obesity, the physician must have expertise in the field of bariatric medicine with no less than:
   1. 100 AMA or AOA Category 1 CME hours in the core-content of bariatric medicine prior to practicing in the specialized field of bariatric medicine/medical weight loss. For any physician who is currently practicing 30% or greater in bariatric medicine or advertising medical weight loss, the physician has 24 months from effective date of this regulation to comply with the initial CME requirement or be board certified in bariatric medicine in order to continue practicing bariatric medicine/medical weight loss in the state of Mississippi. All Category 1 CME in core-content of bariatric medicine should be obtained within a 24 month period.
   2. Following the initial 100 Category 1 CME, a physician is required to obtain 30 AMA or AOA Category 1 CME in core-content of bariatric medicine annually in order to continue practicing bariatric medicine and to renew certification with the MSBML.

G. A Medical Spa facility for which 30% or more of the patients are provided a comprehensive weight management treatment program or advertises medical weight loss to the public must include behavior modification, comprehensive nutritional education, exercise or physical therapy intervention, long-term maintenance programs, the dispensation and/or prescribing of FDA-approved medications as indicated for weight loss on a monthly basis by a physician and/or nurse practitioner/physician assistant being overseen/collaborating to provide comprehensive treatment of obesity is prohibited unless all criteria above are met.

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

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

A. Definitions

For the purpose of Part 2640, Rule 1.6 only, the following terms have the meanings indicated:

1. "Chronic Pain" is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending physician and one or more physicians specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than six months), then they will be considered for the purposes of this regulation to have "de facto" chronic pain and subject to the same requirements of this regulation. "Terminal Disease Pain" should not be confused with "Chronic Pain." For the purpose of this rule, "Terminal Disease Pain" is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
2. "Acute Pain" is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. It is generally time limited and is responsive to therapies, including controlled substances as defined by the U.S. Drug Enforcement Administration. Title 21 CFR Part 1301 Food and Drugs.
3. "Addiction" is a neurobehavorial syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not be considered addiction.
4. "Physical Dependence" is a physiological state of neuroadaptation to a substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance. Physical dependence is a normal physiological consequence of extended opioid therapy for pain and should not be considered addiction.
5. "Substance Abuse" is the use of any substance(s) for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.
6. "Tolerance" is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia. Such tolerance may or may not be evident during treatment and does not equate with addiction.

B. Notwithstanding any other provisions of these rules, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

C. Notwithstanding any other provisions of these rules, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other

drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:

1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patient's diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.

D. No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.

E. No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or

continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

F. No physician shall prescribe any controlled substance or other drug having addiction-forming or addiction-sustaining liability to a patient who is a drug addict for the purpose of "detoxification treatment" or "maintenance treatment" and no physician shall administer or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless they are properly registered in accordance with Section 303(g) 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a physician from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Not more than one (1) day's medication may be administered to the person or for the person's use at one time. Such emergency treatment may be carried out for not more than three (3) days. Nothing in this paragraph shall prohibit a physician from administering or dispensing narcotic controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
B. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark "none."
C. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
D. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
E. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.

F. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photo statically reproduced. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature; however, if it is printed on security paper that ensures it is not subject to copying or alteration, an electronic or digital signature may be substituted. Electronic transmission of controlled substance prescription information is generally allowed (except Schedule II which is addressed below); however, for the purposes of this regulation, electronic transmission of controlled substance prescription data is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

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

   It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this rule are in addition to, and not in lieu of documentation required in Part 2640, Rule 1.4.
2. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will

be prepared and maintained in the same manner as described in Part 2640, Rule 1.9.F.1.

3. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.9.F.1.
4. Each system shall have policies and procedures that address the following:
   i. The patient shall not be restricted from access to the pharmacy of their choice.
   ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
   iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.

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

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

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

A. Electronic prescription transmissions are allowed using standards established and approved by the United States Department of Health and Human Services--Agency for Healthcare Research and Quality (HHS-AHRQ). E-prescribing is the electronic entry of a prescription by a practitioner, the secure electronic transmission of the prescription to a pharmacy, the receipt of an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner. Electronic transmissions may be computer to computer or computer to facsimile.
B. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions shall be authorized by a written or electronic signature and shall be issued in accordance with all other provisions of this rule. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
C. Electronic prescriptions for controlled substances (schedules II, III, IV, and V) are permitted if (or when) a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances

prescriptions. The Board of Medical Licensure considers Nalbuphine Hcl, Carisoprodol, Butalbital compounds and Tramadol to be controlled substances.

D. All written prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. Each prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription. In the case of a prescription that is electronically generated and transmitted, the physician must make an overt act when transmitting the prescription to indicate either "dispense as written" or "substitution permissible". When done in conjunction with the electronic transmission of the prescription, the prescriber's overt act indicates to the pharmacist that the brand name drug prescribed is medically necessary.

E. If a prescription form which does not contain two signature lines required in Part 2640, Chapter 1, Rule 1.10.D is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.

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

   Every written prescription issued by a physician, bearing more than one non-controlled medication, shall clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank shall be clearly voided by the issuing physician.

G. A prescription shall no longer be valid after the occurrence of any one of the following events:
   1. Thirty (30) days after the death of the issuing physician.
   2. Thirty (30) days after the issuing physician has moved or otherwise changed the location of his or her practice so as to terminate the doctor/patient relationship. Termination of the doctor/patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing physician.

3. Insofar as controlled substances are concerned, immediately after loss of DEA Controlled Substances Privilege by the issuing physician.
4. Immediately after revocation, suspension or surrender of the physician's license.

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

Rule 1.12 Freedom of Choice. A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.

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

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

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

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

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

Rule 1.14 Security of Controlled Substances. In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are

maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

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

Rule 1.15 Pain Management Medical Practice.

A. Definitions. For the purpose of Part 2640, Rule 1.145 only, the following terms have the meanings indicated:
   1. "Board" means the Mississippi State Board of Medical Licensure.
   2. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi as required by Part 2601, Chapter 02.
   3. "Physician Assistant" means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.
   4. "Prescriptive Authority" means the legal authority of a professional licensed to practice in the state of Mississippi who prescribes controlled substances and is registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR, Part 1301 Food and Drugs.
   5. "Pain Management Medical Practice" is defined as a public or privately owned medical practice that provides pain management services to patients, a majority (more than 50%) of which are issued a prescription for, or are dispensed, opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for more than one hundred eighty days (180) days in a twelve month period. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics, volunteer clinics, hospice services, out-patient surgical clinics or physician/clinic practice(s) at which the majority of the patients are treated for ~~that treat~~ pain as a result of a terminal illness.

B. The physician owner(s)/operator(s) of the pain management medical practice must possess and maintain a majority ownership (more than 50%) of the pain management medical practice and shall register the practice with the Board. No physician may practice in a pain management medical practice unless that practice is majority owned (over 50 %) by a physician or physicians, unless exempted under A.5 above.—A hospital or hospital-system owned pain management practice is exempt from the majority ownership requirement. ; ~~however, the hospital must employ a~~ A physician or medical director who owns, operates or is employed in any pain management medical practice must meet~~s~~ the requirements set forth below. ~~Certificates, once issued, are not transferable or assignable.~~

~~Only the primary physician owner is required to register with the Board if there is more than one physician owner of the practice. Each practice requires a separate certificate.~~

C. Application for Initial Registration and Renewal. ~~The~~ A physician owner(s)/operator(s) of the pain practice must:
   1. submit the documents required by the application process for proof of ownership or provide alternative documents with a written request for special consideration;
   2. report ownership or investment interest of any other pain management facility operating within the state of Mississippi and provide the name and address of the other pain management facility(ies) in which there is an ownership or vested interest;
   3. identify all individuals with prescriptive authority who are employed or contracted in any capacity and will be prescribing or dispensing controlled substances to patients of the facility; and
   4. report any changes of information provided in the application for registration or renewal within 30 days.

D. Physician owner(s)/operator(s) may not operate a pain management practice in the state of Mississippi without obtaining a certificate from the Mississippi State Board of Medical Licensure. Certificates, once issued, are not transferable or assignable. Only the primary physician owner is required to register with the Board if there is more than one physician owner of the practice. Each practice requires a separate certificate.

E. Physician owner(s)/operator(s) or employees may not operate in Mississippi unless the practice is owned 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 that is not designated as limited, retired, temporary, or in-training; and
   3. holds a certificate of registration for that pain management practice.

F. In addition, the physician owner(s)/operator(s) of a pain management practice, a physician or physician assistant employee of the practice or a physician or physician assistant with whom the physician owner(s)/operator(s) of a practice contracts for services may not:
   1. have been denied, by any jurisdiction, a certificate issued by the Drug Enforcement Administration (DEA) under which the person may prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
   2. have held a certificate issued by the Drug Enforcement Administration under which the person may prescribe, dispense, administer, or supply, or sell a controlled substance that has been restricted; ~~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; or
   4. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.

G. No ~~The~~ physician or physician assistant may practice in a pain management medical practice ~~owner(s)/operator(s) should not nor shall employ any physician or physician assistant~~ who has been convicted of, pled nolo contendere to or received deferred adjudication for:
   1. an offense that constitutes a felony; or

2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.

H. Training Requirements for All Physicians Practicing in Pain Management Medical Practices. Effective July 1, 2014, physicians who have not met the qualifications set forth in subsections (1) through (5) below, shall have successfully completed a pain residency fellowship or a pain medicine residency that is accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:

1. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
2. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists in pain management;
3. board certification in pain medicine by the American Board of Pain Medicine (ABPM);
4. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA; or
5. successful completion of 100 hours of in-person, live participatory AMA or AOA Category 1 CME courses in pain management.

~~6.~~Upon qualifying under any of the 5 subsections above, physicians must also document completion of 15 hours of live lecture format, Category 1 CME in pain management for every year the physician is practicing pain management.

I. Physicians and physician assistants practicing in a registered pain practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report shall be obtained on the initial visit and at intervals deemed appropriate for good patient care from the MPMP for every patient receiving controlled substances in a registered pain management practice.

J. Requirements for Physician Assistants Practicing in Pain Management Medical Practices. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:

1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, that is not designated as limited, restricted, retired, temporary, or in-training;
2. Physician assistants with approved prescriptive authority must obtain 15 hours of Category 1 CME related to prescribing and pain management for every year the physician assistant is practicing in a Board registered pain practice;
3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).

K. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. Notwithstanding, this does not prohibit a MPHP participant from working in a pain practice.
L. Certificates are valid for one year and must be renewed annually along with the practitioner's license to practice medicine in the state of Mississippi. There is a thirty-day grace period for renewal after which the owner(s)/operator(s) must reapply for an original certificate. The physician owner(s)/operator(s) of the practice shall post the certificate in a conspicuous location so as to be clearly visible to patients. The practice may not continue to operate while the certificate has expired.
M. The Board shall have the authority to inspect a pain management practice. During such inspections, authorized representatives of the Board, who may be accompanied by agents of the Mississippi Bureau of Narcotics, may inspect all necessary documents and medical records to ensure compliance with all applicable laws and rules.
N. If the Board finds that a registered pain management practice no longer meets any of the requirements to operate as a pain practice, the Board may immediately revoke or suspend the physician's certificate to operate a pain management practice. The physician owner(s)/operator(s) shall have the right to an administrative hearing before the Board at the next available and scheduled meeting of the Board. Further, the Board has the discretion to lift the suspension of a certificate when the practice demonstrates compliance with the Board's rules and regulations.

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

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

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

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

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

NOVEMBER 2013

NO

EXECUTIVE COMMITTEE

MEETING HELD

IN

NOVEMBER 2013

All information was combined into the Board meeting held

NOVEMBER 13, 2013

BOARD MINUTES
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
NOVEMBER 13, 2013

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Thursday, November 13, 2013, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

S. Randall Easterling, M.D., Vicksburg, President
Virginia M. Crawford, M.D., Hattiesburg, Vice President
Larry B. Aycock, M.D., McComb, Secretary
Claude D. Brunson, M.D., Jackson
Rickey L. Chance, D.O., Ocean Springs
William S. Mayo, D.O., Oxford
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
Leslie Ross, Investigations Supervisor
Frances Carrillo, Special Projects Officer, Investigative Division
Wesley Breland, Hattiesburg, Consumer Health Committee

Not present:

William B. Jones, M.D., Greenwood
Charles Thomas, Yazoo City, Consumer Health Committee
Sherry H. Pilgrim, Staff Officer

The meeting was called to order at 9:06 a.m. by Dr. Easterling, President. The invocation was given by Dr. Mayo and the pledge was led by Dr. Merideth. Dr. Easterling welcomed Melissa Magee, Court Reporter, and extended a welcome to all visitors present at the meeting.

Dr. Easterling asked for opening remarks and announcements. Dr. Chance made a motion that the Board add a line on the Board's website to link to the Pharmacy Board's Prescription Monitoring Program. The motion was seconded by Dr. Miles and carried unanimously.

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

APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD SEPTEMBER 01, 2013, THROUGH OCTOBER 31, 2013

Two hundred eighty-seven (287) licenses were certified to other entities for the period September 01, 2013, through October 31, 2013. Motion was made by Dr. Aycock, seconded by Dr. Mayo, and carried unanimously to approve these certifications.

APPROVAL OF LICENSES ISSUED FOR THE PERIOD SEPTEMBER 01, 2013, THROUGH OCTOBER 31, 2013

One hundred forty (140) licenses were issued for the period September 01, 2013, through October 31, 2013. Motion was made by Dr. Mayo, seconded by Dr. Chance, and carried unanimously to approve these licenses.

REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED SEPTEMBER 18, 2013, AND MINUTES OF THE BOARD MEETING DATED SEPTEMBER 19, 2013

Minutes of the Executive Committee meeting dated September 18, 2013, and Minutes of the Board meeting dated September 19, 2013, were reviewed. Dr. Crawford moved for approval of the minutes as submitted. Dr. Mayo seconded the motion, and it carried unanimously.

REPORTS FROM COMMITTEES

Scope of Practice - Dr. Brunson (Chair), Dr. Easterling, Dr. Jones, Dr. Chance Dr. Miles, Mr. Thomas

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

Professionals Health Program - Dr. Chance (Chair), Dr. Crawford, Dr. Aycock

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

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

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

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

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

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

Dr. Aycock advised that the Federation of State Medical Boards (FSMB) has developed new rules for review and advised that he had provided recommendations to the FSMB.

Licensure Process - Dr. Brunson (Chair), Dr. Craig, Ms. Freeman

Dr. Brunson advised the committee met on November 12, 2013, at 12:00 p.m. and that surveys were sent out and improvements have been made in the office. They are still reviewing the process concerning customer service, security, and reciprocity.

DISCUSS ALEXANDRE MIGUEL BENJO, M.D., PHD, APPLICANT, FORT LEE, NJ, REQUEST FOR WAIVER

Dr. Craig advised that Dr. Benjo was not present at today's meeting but had requested a waiver since he exceeded the Board's requirement to pass all steps of the USMLE in seven (7) years. Following a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Aycock, and carried unanimously that extenuating circumstances did exist to grant Dr. Benjo's request for the waiver.

PERSONAL APPEARANCE BY CHRISTOPHER J. M. CUMMINS, M.D., RIPLEY, MISSISSIPPI MEDICAL LICENSE NUMBER 19838, APPROVE CONSENT ORDER

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Cummins and advised that he was here today without counsel. Mr. Ingram advised that Dr. Cummins had appeared before the Executive Committee in September and was here today to accept and request the Board's approval of the proposed Consent Order that had previously been sent to him for consideration.

Following a brief discussion, motion was made by Dr. Crawford, seconded by Dr. Brunson, and carried unanimously to accept the proposed Consent Order. A copy of the Consent Order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY ROBERT KENT OZON, M.D., GULFPORT, MISSISSIPPI MEDICAL LICENSE NUMBER 17909, APPROVE CONSENT ORDER

Stan Ingram, Complaint Counsel for the Board, introduced Dr. Ozon and advised that he was here today without counsel. Mr. Ingram advised that Dr. Ozon had appeared before the Executive Committee in September and was here today to accept and request the Board's approval of the proposed Consent Order that had previously been sent to him for consideration.

Following a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously to accept the proposed Consent Order. A copy of the Consent Order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY COLEMAN HENLEY, JR., M.D., LAUREL, MISSISSIPPI MEDICAL LICENSE NUMBER 21277, REQUEST REMOVAL OF RESTRICTIONS

Dr. Craig introduced Dr. Henley and advised that he is currently under a Board Order that restricts him to office-based obstetrics and gynecology and that hospital practice is prohibited. Also, Dr. Henley shall not perform any deliveries or surgeries of any kind in the state. Dr. Craig advised that Dr. Henley has requested to appear to request removal of the restrictions on his license.

Dr. Henley addressed the Board and made his request. Dr. Mayo asked Dr. Henley when was the last time he personally performed surgery and he stated it had been seven (7) years. Dr. Crawford asked what his practice plans would include and he stated he will work in the same clinic and just expand to the hospital. In response to further questioning, Dr. Henley acknowledged that he has not received any additional training or education in any of the OB-GYN surgeries since the last time he appeared before the Board, thus prompting the original restrictions in the first place.

Motion was made by Dr. Mayo to deny the request and keep the current Consent Order. Following a brief discussion, motion was made by Dr. Miles, seconded by Dr. Chance, and carried that the Board enter into Executive Session to discuss a matter which could possibly include result in disciplinary action.

Following a motion by Dr. Crawford, seconded by Dr. Chance, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to report on the Board's decision. Dr. Aycock advised that no motion was made that the Board only had a discussion. Dr. Mayo again made the motion to deny Dr. Henley's request and to leave him under the current Board Order. Dr. Crawford seconded the motion and it carried unanimously. A copy of the Order denying Dr. Henley's request is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY MICHELLE QUYNH CHI LAI, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 20803, REQUEST APPROVAL OF PROPOSED CONSENT ORDER

Mr. Ingram introduced Dr. Lai and her attorney, Philip Hearn. Mr. Ingram advised that they had requested a settlement conference and had met earlier with Dr. Craig and a couple investigators of the Board. Mr. Ingram briefly covered the Consent Order offered Dr. Lai and advised that she had accepted the one year suspension that is stayed after 180 days subject to terms and conditions. Mr. Ingram advised that Dr. Lai's 180 day suspension is to be served beginning November 13, 2013, and ends May 12, 2014.

Following a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Miles, and carried unanimously to accept the Consent Order as proposed. A copy of the Consent Order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY SHARON JOENELLE COLLINS, M.D., TYLERTOWN, MISSISSIPPI MEDICAL LICENSE NUMBER 12466, REQUEST APPROVAL OF PROPOSED CONSENT ORDER

Mr. Ingram introduced Dr. Collins and her attorney, Robert Ramsey. Mr. Ingram advised that they had requested a settlement conference and had met earlier with Dr. Craig and a couple investigators of the Board. Mr. Ingram briefly covered the Consent Order offered Dr. Collins and advised that she had accepted the one year suspension that is stayed after 90 days subject to terms and conditions. Mr. Ingram advised that Dr. Collins' 90 day suspension is to be served beginning November 13, 2013, and ends February 11, 2014.

Following a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Miles, and carried unanimously to accept the Consent Order as proposed. A copy of the Consent Order is attached hereto and incorporated by reference.

PERSONAL APPEARANCE BY THOMAS A. STURDAVANT, M.D., GULFPORT, MISSISSIPPI MEDICAL LICENSE NUMBER 16798, REQUEST REMOVAL OF RESTRICTIONS

Mr. Ingram reminded the Board that he had briefly discussed this matter with them at the September Board meeting. Mr. Ingram introduced Dr. Sturdavant and his attorney, Karen Sawyer, and advised that they were here today to request removal of all restrictions on Dr. Sturdavant's license.

Mr. Ingram discussed Dr. Sturdavant's current Consent Order and entered several exhibits into the record.

Several of the Board members questioned Dr. Sturdavant before a motion was made by Dr. Aycock, seconded by Dr. Miles, and carried to grant Dr. Sturdavant's request and remove all restrictions from his license with the understanding that he provide the Board a private letter for his permanent personnel file that advises that he will never practice weight management in Mississippi. A copy of the Order Removing Restrictions is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Melissa Magee, Court Reporter.

PERSONAL APPEARANCE BY VICTOR JAY ZUCKERMAN, M.D., WEST MONROE, LA, MISSISSIPPI MEDICAL LICENSE NUMBER 22261, REQUEST ORDER OF SUSPENSION TO BE MODIFIED TO PROPOSED CONSENT ORDER

Mr. Ingram advised that Dr. Zuckerman and his attorney, Keith Ralston, were here today to request that the Order of Suspension issued at the September Board meeting be vacated and allow Dr. Zuckerman to accept the proposed Consent Order.

Mr. Ingram advised that Dr. Zuckerman was not present at the September Board meeting and did not have an attorney at that time. When Dr. Zuckerman received the Board's Order of Suspension, he retained legal counsel and was here today to explain to the Board what happened and to request that the Board allow him to accept the Board's proposed Consent Order.

Following several questions from the Board members, motion was made by Dr. Aycock, seconded by Dr. Mayo, and carried unanimously to vacate the Order of Suspension and allow Dr. Zuckerman to execute a reciprocal Consent Order which was originally offered to him as a resolution to the matter. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Melissa Magee, Court Reporter.

HEARING IN THE CASE OF ROGER L. COLLINS, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 08566, SUMMONS AND AFFIDAVIT, REQUEST FOR CONTINUANCE

Mr. Ingram addressed the Board and introduced Eric Price, attorney for Dr. Collins. Dr. Collins was not present at today's meeting but represented by legal

counsel to request a Continuance until the January Board meeting.

Motion was made by Dr. Mayo, seconded by Dr. Miles, and carried unanimously to accept Mr. Price's request to grant Dr. Collins a Continuance until the January Board meeting. A copy of the Continuance is attached hereto and incorporated by reference.

HEARING IN THE CASE OF MICHAEL ALEX WHITE, M.D., COLUMBUS, MISSISSIPPI MEDICAL NUMBER 11125, SUMMONS AND AFFIDAVIT

Mr. Ingram introduced Dr. White and his attorney, Rodney Ray. Mr. Ingram advised that Dr. White is currently under a Board Order and that he was issued a Summons and Affidavit to appear today to address the Board concerning violations pertaining to the current Order.

Mr. Ingram addressed the Board and briefly summarized the current Board Order and entered several exhibits into the record. Dr. White was called to the witness stand and was sworn in by the court reporter.

Dr. White acknowledged the charges and stated that he wanted to clarify previous charges that were made against him and try to set the record straight. Following several questions from Board members, motion was made by Dr. Mayo, seconded by Dr. Crawford and carried that the Board enter into Executive Session to discuss a matter that could adversely affect Dr. White and his current disciplinary matter.

Upon a motion by Dr. Crawford, seconded by Dr. Mayo, and carried the Board came out of Executive Session at which time Dr. Easterling asked Dr. Aycock to provide the Board's decision. Dr. Aycock advised that the Board finds Dr. White guilty of Count I, not guilty of County II, and agreed to extend him an additional six (6) months extension to complete the CME requirement and pay the Board the assessed amount. The Board agreed to allow Dr. White six (6) months after he has his DEA hearing in January before the extended time starts.

A copy of the Board's Order that stays the suspension of January 19, 2012, is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Melissa Magee, Court Reporter.

FOR INFORMATION ONLY, ORDER OF PROHIBITION SERVED ON LON FREDERICK ALEXANDER, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 10954

For informational purposes only, Dr. Craig advised that the Board had served Dr. Alexander with an Order of Prohibition.

FOR INFORMATION ONLY, ORDER OF PROHIBITION SERVED ON DOMINICK TRINCA, M.D., GREENVILLE, MISSISSIPPI MEDICAL LICENSE NUMBER 14017

For informational purposes only, Dr. Craig advised that the Board had served Dr. Trinca with an Order of Prohibition.

FOR INFORMATION ONLY, VOLUNTARY SURRENDER, DANIEL THOMAS OVERBECK, M.D., LONG BEACH, MISSISSIPPI MEDICAL LICENSE NUMBER 10976

For informational purposes only, Dr. Craig advised that the Board had received a non-reportable Voluntary Surrender from Dr. Overbeck.

EXAMINING COMMITTEE REPORT FOR DISCUSSION AND RECOMMENDATION

Dr. Craig briefly discussed an Examining Committee report received from Dr. Hambleton, Examining Committee Chairman, to get the Board's recommendation. Following a brief discussion, motion was made by Dr. Mayo, seconded by Dr. Chance, and carried to accept the Examining Committee's recommendation concerning the physician.

LETTER OF REQUEST FROM GREENVILLE NEUROMODULATION CENTER

Dr. Craig advised that the Board had received a letter from the Greenville Neuromodulation Center in Greenville, PA. After a brief discussion, the Board agreed to invite them to appear at the January Board meeting to make a 30 minute presentation so that the Board would have a better understanding of their proposal.

FINAL ADOPT REGULATION CONCERNING THE PRACTICE OF ACUPUNCTURE

Dr. Craig reminded the Board that the regulation is being changed to include the criminal background check.

Motion was made by Dr. Mayo, seconded by Dr. Crawford, and carried unanimously of the Board's intent to final adopt the amended regulation concerning the

practice of acupuncture. A copy of the amended regulation is attached hereto and incorporated by reference. The amended regulation will be filed with the Secretary of State under the Administrative Procedures Act.

CONSIDER BOARD POLICY CONCERNING RESIDENTS AND FELLOWS

Dr. Craig briefly covered the policy concerning residents and fellows and the reason for the policy. Motion was made by Dr. Mayo, seconded by Dr. Aycock, and carried to adopt the policy as written. A copy of the policy is attached hereto and incorporated by reference.

OTHER BUSINESS

LETTER FROM BENJAMIN SANFORD, M.D., CONCERNING REQUEST TO ADD ADDITIONAL APRNS FOR GOLDEN TRIANGLE

Dr. Craig discussed a letter that the Board had received from Dr. Sanford requesting approval to add additional APRNs for Golden Triangle. After a brief discussion, the Board agreed to invite Dr. Sanford to the January Executive Committee meeting to discuss his request. The Board agreed that until the January Executive Committee meeting he is approved to practice at the Starkville free standing clinic.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:31 p.m., with the next meeting scheduled for Thursday, January 16, 2014.

S. RANDALL EASTERLING, M.D.
President

Minutes taken by
Rhonda Freeman, Bureau Director
Licensure Division
Transcribed by
Sherry H. Pilgrim, Staff Officer
November 13, 2013

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

CHRISTOPHER J. M. CUMMINS, M. D.

CONSENT ORDER

WHEREAS, Christopher J. M. Cummins, M. D., hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License Number 19838, and said license is current until June 30, 2014;

WHEREAS, the Investigative staff of the Mississippi State Board of Medical Licensure conducted an investigation into the medical practice of Licensee in Ripley, Mississippi, and has documented evidence indicating that Licensee has violated the rules and regulations of the Board, pertaining to the supervision of a Physician Assistant, the collaboration with Advanced Practice Registered Nurses (APRN's) as well as the Board's rules and regulations related to physician advertising;

WHEREAS, if established in a due process hearing, such conduct is in violation of the rules and regulations of the Board, specifically Title 30, Part 2630 Chapter 1 (Collaboration with Nurse Practitioners), Title 30, Part 2615 Chapter 1 (Supervision of Physician Assistants) and Title 30, Part 2635 Chapter 12 (Physician Advertising), for which the Mississippi State Board of Medical Licensure may place the 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 medical license, or take any other action the Board may deem proper under the circumstances;

WHEREAS, Licensee wishes to avoid an evidentiary hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, has consented to certain restrictions being placed 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 place the following restrictions on the Licensee's Certificate (No. 19838) to practice medicine in the State of Mississippi, for a term on one (1) year, to-wit;

(1) Licensee shall immediately terminate all collaborative relationships currently in effect with any and all Advanced Practice Registered Nurses (APRN's) as well as immediately cease any and all supervisory relationships with any and all Physician Assistants.

(2) Licensee shall immediately cease all physician or clinic advertising on all forms of the Social Media Network.

(3) Licensee must ensure that all other forms of public advertising properly and accurately addresses his, and his employees qualifications.

(4) Within the next twelve (12) months, Licensee shall attend, and satisfactorily complete courses designated as American Medical Association approved, Category I Continuing Medical Education (CME) in the areas of professional medical ethics and HIPAA rules and regulations; with said courses approved in advance by the Executive Director of the Board. Such courses shall be in-person format. Correspondence, internet/remote access, or independent study are not permitted. Licensee shall submit to the Board documentary proof of successful completion. Additionally, any credits obtained pursuant to this requirement shall be in addition to the biennial forty (40) hours of Category I CME credits as cited in Part 2610, Chapter 2 of the Board's Rules and Regulations.

(5) Licensee must obtain current certification in Advanced Cardiac Life Support (ACLS), and must provide proof of certification to the Board upon completion.

(6) Pursuant to Miss.Code Ann., Section 73-25-30, Licensee shall pay all such investigative cost 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 payable to the Mississippi State Board of Medical Licensure on or before forty (40) days from the date the assessment is mailed via U. S. Mail to the Licensee's primary practice location.

(7) Violation(s) of any provision(s) of the Medical Practice Act, the Mississippi Controlled Substances Law, the rules and regulations of the Board, or any provision of this Order, shall be grounds for additional disciplinary action by the Board.

This Consent Order and the action taken as provided herein, pertains solely to the above enumerated regulatory violations (collaboration with APRN's, supervision of Physician Assistants and physician advertising). Accordingly, the Board reserves the right and authority to conduct any further investigation and initiate disciplinary action where deemed appropriate, as to any other violations of the Mississippi Medical Practice Act.

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 National Practitioner Data Bank and 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, and to have such charges adjudicated pursuant to Miss. Code Ann., Section 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, Christopher J. M. Cummins, M. D., nonetheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter this Consent Order, thereby placing the above enumerated terms, conditions, and restrictions on his license to practice medicine in the State of Mississippi.

Executed, this the 7th day of October, 2013, A.D. 1900HRS, effective

Christopher Joseph Marascalco Cummins, M.D., M.T.
MAJ, MS ARNG

Christopher J. M. Cummins, M.D.

ACCEPTED AND APPROVED, this the 13th day of ~~October~~ November, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ROBERT KENT OZON, M.D.

CONSENT ORDER

WHEREAS, Robert Kent Ozon, M.D., hereinafter referred to as "Licensee," is the current holder of License Number 17909 issued on December 12, 2002, to practice medicine in the State of Mississippi;

WHEREAS, on April 1, 2013, the Mississippi State Board of Medical Licensure, hereafter referred to as the "Board," received a complaint alleging improper collaborative practice on the part of Licensee, inclusive of allegations that Licensee's CRNA performed procedures which the CRNA was not qualified to perform. Licensee was identified as a Neurologist, further raising concerns of collaborative practice compatibility with a CRNA. It was also discovered that Licensee allowed his license to lapse and was reinstated on August 4, 2009, with no known explanation as to why;

WHEREAS, as a result of the complaint and information on file with the Board, on May 23, 2013, Licensee was visited by an Investigator of the Board to discuss his collaborative practice. Based on the statements made by Licensee and the lack of documentation produced at the time of the interview, it was determined that Licensee had very poor insight into his responsibilities as a collaborative physician. No protocol between Licensee and his three mid-level providers could be produced to the Investigator at the time;

WHEREAS, a subsequent telephone conversation on July 30, 2013, between Licensee and another Investigator of the Board revealed further confusion on the part of Licensee

regarding his responsibilities as a collaborative physician, failure to properly indicate whether Licensee was the primary collaborative physician or secondarily responsible for his mid-level providers, per his recently submitted license renewal, and a complete lack of knowledge regarding the identity of the back-up physicians for his mid-level providers. Licensee also admitted to failing to craft a proper protocol, even after an in-clinic visit from an Investigator of the Board. Lastly, it was discovered that, depending on where Licensee practiced on a given workday, an unapproved free standing clinic was created based on the various distances between Licensee and each mid-level provider who would be practicing outside of the 15 mile radius from Licensee's primary practice location;

WHEREAS, additional information was obtained from a patient of Licensee's CRNA which indicated the CRNA identified himself as a doctor to the patient and, further, identified himself as an Anesthesiologist. When questioned about any prescriptions obtained, it was also discovered that the patient was issued prescriptions by Licensee when Licensee was not the provider who saw the patient;

WHEREAS, as a result of the concerns regarding Licensee's collaborative practice, Licensee appeared before the Executive Committee of the Board on September 19, 2013, to address the various issues identified by the Board. During the course of the meeting, and after deliberation by the Executive Committee, it was determined that Licensee should be offered the opportunity to enter into a consent agreement placing certain restrictions on his Mississippi medical license, thereby avoiding an evidentiary hearing before the Board;

WHEREAS, by virtue of the aforementioned information regarding Licensee's collaborative practice, and Licensee's practice of medicine in general, Licensee is in violation of the Board's Administrative Code, specifically Title 30: Part 2630, Chapter 1:

Collaboration/Consultation with Nurse Practitioners, and is in violation of the Mississippi Medical Practice Act, specifically Subsection (3), (8)(d), (8)(f), and (13), of Miss. Code Ann. § 73-25-29 (1972), for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

WHEREAS, it is the desire of Licensee to avoid a hearing before the Mississippi State Board of Medical Licensure and, in lieu thereof, Licensee has agreed to enter into a Consent Order which would, upon acceptance by the Board, avoid a formal disciplinary hearing before the Board;

WHEREAS, the Board, after due consideration, is of the opinion that it should enter into this Consent Order, which is consistent with the recommendations of the Executive Committee of the Board.

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with the consent of Licensee, as signified by his joinder herein, agrees to the following:

1. Licensee is hereby **restricted** from collaborating with, and shall not collaborate with any mid-level provider, including, but not limited to: A.P.R.N.s, C.R.N.A.s, and P.A.s. This restriction shall remain in full force and effect for a minimum of **one year**. Upon the expiration of the one year period, Licensee shall have the right, but not the obligation, to petition the Board for removal of the restriction.
2. Prior to petitioning the Board for removal of the restriction, Licensee must complete a Category 1 AMA approved course in the **Prescribing of Controlled Substances** and must submit proof of successful completion to the Board. This course will be in addition to, and will not count towards, the requisite 40 hours of CME required by the Administrative Code of the Board.

3. 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 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.

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.

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.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann. § 73-25-27, 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 Kent Ozon, 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, subject to those terms and conditions listed above.

EXECUTED this the 13th day of ~~October~~ November, 2013.

Robert Kent Ozon, M.D.

ACCEPTED AND APPROVED this the 13th day of November, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D., President
Mississippi State Board of Medical Licensure

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
November 13, 2013

AGENDA ITEM: Personal appearance by Coleman Henley, Jr., M.D.

The Board went into Executive Session; however, no motion was made only a discussion was held.

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

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

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSEE

OF

COLEMAN HENLEY, JR., M.D.

ORDER

THIS MATTER came on regularly for consideration on November 13, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Coleman Henley, Jr., M.D. (hereinafter "Licensee"), seeking removal of all restrictions on his license to practice medicine in the state of Mississippi.

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. Board members present for all proceedings were S. Randall Easterling, M.D. President; William S. Mayo, D.O., Larry B. Aycock, 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.

Licensee was issued Mississippi Medical License No. 21277 on October 5, 2010. His specialty is obstetrics and gynecology. When submitting his application for licensure, it was revealed that Licensee had not performed any hospital based surgery or deliveries for approximately four (4) years. Therefore, as a condition of licensure, Licensee entered into a Consent Order with the Board on July 27, 2010, placing the following restrictions on his license:

(a) Licensee's practice was limited to office-based obstetrics and gynecology. Hospital practice was expressly prohibited.

(b) Licensee was prohibited from performing any deliveries or surgeries of any kind in the state Mississippi unless specifically authorized in writing by the board.

Licensee was granted the right to petition the board for release of any of the above conditions after expiration of one (1) year. Thereafter, any right to petition the Board for

reconsideration was limited to reasonable interval intervals, but not less than twelve (12) months from date of last appearance.

During the hearing, Licensee acknowledged that since executing the aforementioned Consent Order and receiving license, he still has not received any advanced training or residency training in any of the surgical specialties, specifically gynecological and obstetrical surgery. Notwithstanding, Licensee wishes to receive such privileges and do so in a hospital environment with assurances that he will not do anything to harm his patients. The Board is familiar with the hospital credentialing process, it's obligation is to protect the public. While program of proctoring was suggested and may be beneficial, no details of such a program were provided and no offer of post-graduate training was presented. The Board is not inclined to remove such privileges without further assurances that the public will be protected.

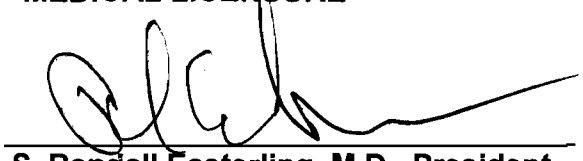
Based upon the above, the Board finds that License's request for removal of all restrictions is not well taken.

THEREFORE, IT IS HEREBY ORDERED that Licensee's petition for removal of all restrictions on his license to practice medicine in the state of Mississippi is denied.

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 Coleman Henley, Jr., M.D. Because Dr. Henley was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 13th day of November, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: 

S. Randall Easterling, M.D., President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

MICHELLE QUYNH CHI LAI, M.D.

CONSENT ORDER

WHEREAS, MICHELLE QUYNH CHI LAI, M.D., hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License No. 20803, issued August 26, 2009, and said license is current until June 30, 2014;

WHEREAS, the Investigative Staff of the Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," conducted a comprehensive investigation into the medical practice of Licensee in Hattiesburg, Mississippi, and the surrounding area, and has in its possession evidence which, if produced during the course of an evidentiary hearing, would substantiate that Licensee has violated provisions of the Board's Administrative Code, by administering, dispensing or prescribing drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice;

WHEREAS, the above conduct, if established before the Board, constitutes violations of the Mississippi Medical Practice Act, specifically, Subsections (3), (8)(d), and (13) of § 73-25-29 and § 73-25-83(a), Miss. Code Ann. (1972), as amended; Rules 1.4 and 1.7, C(1),(2),(3), and D, of Title 30, Part 2640, Chapter 1 of the Board's Administrative Code "Rules Pertaining to Prescribing, Administering and Dispensing of Medication," for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

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

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by her joinder herein, does hereby **suspend** Licensee's certificate (No. 20803) to practice medicine in the State of Mississippi, subject to the following terms and conditions, to-wit:

1. Licensee's medical license (No. 20803) to practice medicine in the State of Mississippi is hereby **suspended** for a period of one (1) year, with the suspension stayed after a period of one-hundred and eighty (180) days. At the first available meeting date following the one (1) year suspension term, Licensee shall appear before the Board to review her compliance and request removal of all restrictions. Notwithstanding the one year term stated herein, all restrictions shall remain until ordered removed by the Board.

2. During the one (1) year suspension period, Licensee shall attend and successfully complete Continuing Medical Education (CME) courses in the following areas: (1) proper prescribing of controlled substances; (2) medical ethics; and (3) proper medical record keeping. The CME courses required herein shall be American Medical Association (AMA) approved Category I credits. Any credit received for such courses shall be in addition to the usual forty (40) hours of Category I credits required by Board regulation. Licensee will be required to be on-site while taking any and all CME courses, as courses can not be taken on-line or by other means. Following completion of these courses, Licensee shall submit to the Board documentary proof of successful completion.

3. Licensee shall report in writing to the Board within fifteen (15) days should her medical license in any state be subject to investigation or disciplinary action.

4. Licensee's medical practice shall be subject to periodic surveillance. The Board's Director, any member of the Board, or Investigator for the Board may perform an unannounced inspection of any clinic wherein Licensee practices, which may include a chart review of selected patient files.

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

6. Violation of any provisions(s) of the Medical Practice Act, the Mississippi Uniform Controlled Substances Law, the rules and regulations of the Board, or any provision of this Order, shall be grounds for immediate lifting of the stay as provided herein and suspension of Licensee's Mississippi medical license for a period of one (1) year from the date of the offense.

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

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 her right to notice of charges specified against her, to have such charges adjudicated pursuant to Miss. Code Ann. § 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, **MICHELLE QUYNH CHI LAI, M.D.**, nevertheless, hereby waives her right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby suspending her license to practice medicine in the State of Mississippi for a period of one (1) year, with the suspension stayed after a period of one- hundred and eighty (180) days, subject to those terms and conditions listed above.

Executed, this the 13 day of November, 2013.

MICHELLE QUYNH CHI LAI, M.D.

ACCEPTED AND APPROVED, this the 13th day of November, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

SHARON JOENELLE COLLINS, M.D.

CONSENT ORDER

WHEREAS, SHARON JOENELLE COLLINS, M.D., hereinafter referred to as "Licensee," is the current holder of License No. 12466, issued June 18, 1990, 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 the "Board," has conducted an investigation into the medical practice of Licensee in Tylertown, Mississippi, and has in its possession evidence which, if produced during the course of an evidentiary hearing, would substantiate that Licensee has violated provisions of the Board's Administrative Code;

WHEREAS, the above conduct, if established before the Board, constitutes violations of the Mississippi Medical Practice Act, specifically, Subsections (3), (8)(d), and (13) of § 73-25-29 and § 73-25-83(a), Miss. Code Ann. (1972), as amended; Rules 1.4 and 1.7, C(1),(3), D and E, of Title 30, Part 2640, Chapter 1 of the Board's Administrative Code "Rules Pertaining to Prescribing, Administering and Dispensing of Medication," for which the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

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

NOW, THEREFORE, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by her joinder herein, does hereby **suspend** Licensee's certificate (No.

12466) to practice medicine in the State of Mississippi, subject to the following terms and conditions, to-wit:

1. Licensee's medical license (No. 12466) to practice medicine in the State of Mississippi is hereby **suspended** for a period of one (1) year, with the suspension stayed after a period of ninety (90) days. At the first available meeting date following the one (1) year suspension term, Licensee shall appear before the Board to review her compliance and request removal of all restrictions. Notwithanding the one year term stated herein, all restrictions shall remain until ordered removed by the Board.
2. During the one (1) year suspension period, Licensee shall attend and successfully complete Continuing Medical Education (CME) courses in the following areas: (I) proper prescribing of controlled substances; (ii) medical ethics; (iii) and proper medical record keeping. The CME courses required herein shall be American Medical Association (AMA) approved Category I credits. Any credit received for such courses shall be in addition to the usual forty (40) hours of Category I credits required by Board regulation. Licensee will be required to be on-site while taking any and all CME courses, as courses can not be taken on-line or by other means.
3. Licensee shall report in writing to the Board within fifteen (15) days should her medical license in any state be subject to investigation or disciplinary action.
4. Licensee's medical practice shall be subject to periodic surveillance. The Board's Director, any member of the Board, or Investigator for the Board may perform an unannounced inspection of any clinic wherein Licensee practices, which may include a chart review of selected patient files.
5. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.
6. Should the Board hereafter receive documented evidence of Licensee violating any of the terms and conditions of this Consent Order, the Board shall have the right to

remove the stay of suspension thereby suspending Licensee's certificate to practice medicine or take any other action as deemed necessary by the Board, provided Licensee shall be given an opportunity for a due process hearing on the matter at the first available regular meeting date following issuance of formal charges.

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

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.

Further, it is not the intent or purpose of this Order to encourage malpractice liability as a result of Board action. Therefore, by execution of this Consent Order, Licensee is not admitting to or acknowledging any conduct or act of malpractice.

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 her right to notice of charges specified against her, to have such charges adjudicated pursuant to Miss. Code Ann. § 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, **SHARON JOENELLE COLLINS, M.D.**, nevertheless, hereby waives her right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby suspending her license to practice medicine in the State of Mississippi for a period of one (1) year, with the suspension stayed after a period of ninety (90) days, subject to those terms and conditions listed above.

Executed, this the 13th, day of November, 2013.

Sharon Collins
SHARON JOENELLE COLLINS, M.D.

ACCEPTED AND APPROVED, this the 13th, day of November, 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
PRESIDENT

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSEE

OF

THOMAS EDWARD STURDAVANT, M.D.

ORDER

THIS MATTER came on regularly for consideration on November 13, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Thomas Edward Sturdavant, M.D. (hereinafter "Licensee"), seeking removal of all restrictions on his license to practice medicine in the state of Mississippi.

Licensee was present, represented by Honorable Karen K. Sawyer. 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 S. Randall Easterling, M.D. President; William S. Mayo, D.O., Larry B. Aycock, 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.

By virtue of that certain Determination and Order rendered by the Board on January 19, 2012, Licensee was prohibited from ever treating patients for the purpose of weight loss or obesity, including but not limited to prescribing, dispensing or administering any medication. Licensee now wishes to be relieved of all restrictions on his license, and has provided assurances to the Board that he has no intention of operating a diet clinic or prescribing, dispensing or administering medication to patients for the purpose of weight loss or obesity. The Board, after consideration of all testimony and evidence finds Licensee's request to be well taken.

IT IS HEREBY ORDERED, that all restrictions on Licensee's certificate to practice medicine in the state of Mississippi are hereby removed. Licensee now holds an unrestricted license to practice medicine in the state of Mississippi.

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 Thomas Edward Sturdavant, M.D. Because Dr. Sturdavant was informed of this decision following Board deliberations, this Order shall be given immediate effect.

SO ORDERED, this the 13th day of November, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. Randall Easterling, M.D., President

Thomas Edward Sturdavant, M.D.

November 14, 2013

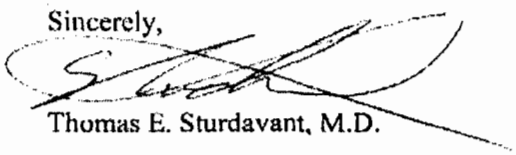
Miss. State Board of Medical Licensure
H.Vann Craig, M.D., Executive Director
1867 Crane Ridge Drive
Suite 200-B
Jackson, Miss. 39216

Re: Thomas E. Sturdavant, M.D.

Dear Dr. Craig:

In accordance with the request of the Board, please accept this correspondence as confirmation of my assurance that I have no intention of operating a diet clinic or prescribing, dispensing or administering medication to patients for the purpose of weight loss.

Sincerely,



Thomas E. Sturdavant, M.D.

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSEE

OF

VICTOR JAY ZUCKERMAN, D.O.

ORDER

THIS MATTER came on regularly for consideration on November 13, 2013, before the Mississippi State Board of Medical Licensure, in response to the request of Victor Jay Zuckerman, D.O. (hereinafter "Licensee"), to vacate that certain Determination and Order rendered by the Board on July 18, 2013.

Licensee was present, represented by Honorable Keith Raulston. 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 S. Randall Easterling, M.D. President; William S. Mayo, D.O., Larry B. Aycock, 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.

By virtue of the aforementioned Determination and Order rendered July 18, 2013, the Board indefinitely suspended the medical license of Licensee after he failed to appear. During his appearance, Licensee explained in detail the reason for his failure to appear and his misinterpretation of the consent order which was initially offered to him as a resolution of the matter. The Board, after consideration of the testimony and other matters, finds Licensee's request to be well taken.

IT IS HEREBY ORDERED that Determination and Order rendered by the Board on July 18, 2013, is vacated in its entirety and the Board staff shall so notify the National Practitioner Data Bank. Licensee has agreed to execute the reciprocal consent order which was originally offered to him as a resolution of the matter.

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 Victor Jay Zuckerman, D.O. Because Dr. Zuckerman was informed of this decision following Board deliberations, this Order shall be given immediate effect.

SO ORDERED, this the 13th day of November, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: 

S. Randall Easterling, M.D., President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF PHYSICIAN'S LICENSE

OF

VICTOR JAY ZUCKERMAN, D.O.

CONSENT ORDER

WHEREAS, VICTOR JAY ZUCKERMAN, D.O., hereinafter referred to as "Licensee" is the current holder of License No. 22261, issued November 11, 2012, for the practice of medicine in the State of Mississippi;

WHEREAS, The Louisiana State Board of Medical Examiners initiated an investigation of Dr. Zuckerman, a physician licensed in the State of Louisiana pursuant to Certificate Number DO.000189, issued on August 7, 2009, and practicing medicine at the time in and around Shreveport, Louisiana. Dr. Zuckerman had agreed to serve as the Medical Director of the Longevity Center in Shreveport, which was owned and operated by a registered nurse. During the course of the investigation by Louisiana State Board of Medical Examiners' staff, the nurse was found to be administering Botox to a patient in the absence of physician supervision. The nurse admitted to the investigators that she was the primary provider at the Longevity Center and regularly administered both Botox and other Dermal Fillers without a physician evaluation, order or physical presence. As the Medical Director, Dr. Zuckerman was responsible for assuring that the care provided to patients was performed by appropriately trained and licensed individuals. He allowed this individual to use his name in promoting her practice and did not take steps to prevent her from engaging in the unauthorized practice of medicine.

Upon notice of the investigation, Dr. Zuckerman discontinued the conduct in question, and severed all professional relationships with the nurse in question. In a

subsequent meeting with the Investigating Officer assigned by the Board, Dr. Zuckerman stated that he did not condone the behavior of the nurse, he did not authorize her to perform these procedures, nor did he profit financially from her performance of the procedures. Nevertheless, Dr. Zuckerman acknowledges that he did not fulfill his professional obligations as a Medical Director.

On February 13, 2013, Licensee entered into a Consent Order with the Louisiana State Board of Medical Examiners for violation of the Louisiana Medical Practice Act. Pursuant to La. Rev. Stat. §37:1285 A, the Louisiana State Board of Medical Examiners may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of: (13) "[U]nprofessional conduct;"" and (18) "[k]nowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or... lending one's name to an illegal practitioner." Licensee was Officially Reprimanded by the Louisiana State Board of Medical Examiners effective the 18th day of March, 2013.

WHEREAS, pursuant to the authority vested in the Board by La. Rev. Stat. §37:1285 and La. Rev. Stat. §49:955(D); effective the 18th day of March, 2013, it was Ordered that the license of Dr. Zuckerman, to engage in the practice of medicine in the State of Louisiana, as evidenced by Certificate No. 000189, was **OFFICIALLY REPRIMANDED** for the conduct identified herein above, provided, however, that such license and Dr. Zuckerman's continuing exercise of rights and privileges there under shall be conditioned upon his acceptance of and strict compliance with the following terms, and conditions:

(1) **Continuing Medical Education-Ethics and Professionalism Course**. Within six (6) months of the effective date of this Order Dr. Zuckerman shall attend and successfully complete a course in medical ethics and professionalism. All courses required by this provision shall be pre-approved by the Board or its designee.

(2) **Payment of Fine**. Within six (6) months of the effective date of this Order, Dr. Zuckerman shall pay to the Board a fine in the amount of Two Thousand ($2,000) dollars.

(3) **Effect of Violation/Sanction**. By his subscription hereto, Dr. Zuckerman acknowledges that his receipt of written notification that the Board has received apparently reliable information 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 pending a hearing before the Board and the conclusion of the administrative adjudication of such charges.

It is Further Ordered that any violation or failure of strict compliance with any of the terms and conditions set forth by this Order by Dr. Zuckerman shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for such further action against Dr. Zuckerman's license to practice medicine in the State of Louisiana as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285.

A copy of The Louisiana State Board of Medical Examiner's Consent Order Reprimanding Licensee is attached as "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 Consent Order 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;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Licensee as signified by his joinder herein, does hereby **Formally Reprimand** Licensee.

Licensee further understands that violation of this Order or any other Orders or Agreements that Licensee has entered into, or is subject to from other Licensing authorities shall constitute evidence of unprofessional conduct and will be grounds for further disciplinary action by the Mississippi State Board of Medical Licensure. Licensee shall comply with all Federal and State laws governing the practice of medicine.

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 ths 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 of the resolution of the proceedings.

Licensee shall have the right, but not the obligation, to petition the Board at such time as he has successfully completed all terms and conditions as required by the Louisiana State Board of Medical Examiners.

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 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 day of acceptance and approval of this Consent Order by the Board.

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 th 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.

Pursuant to Mississippi Code Annotated, Section 73-25-63(5), this Consent Order shall not be used against Licensee in any other legal proceedings nor does execution of this Consent Order constitutes any acknowledgment of wrongful misconduct or malpractice by Licensee.

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 act and conclusions of law, **VICTOR JAY ZUCKERMAN, D.O.** , 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 of Reprimand subject to those terms and conditions listed above.

Executed, this the 13th, day of November, 2013.

VICTOR JAY ZUCKERMAN, D.O.

ACCEPTED AND APPROVED, this the 13th, day of November 2013, by the Mississippi State Board of Medical Licensure.

S. Randall Easterling, M.D.
PRESIDENT

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

630 Camp Street, New Orleans, LA 70130
Mailing Address: Post Office Box 30250, New Orleans, LA 70190-0250
www.lsbme.la.gov

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

(504)_____

IN THE MATTER OF:

VICTOR JAY ZUCKERMAN, DO
(Certificate No. 000189)
Respondent

No. 12-I-221

CONSENT ORDER

The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners (the "Board") following the receipt of apparently reliable information which indicated that Victor Jay Zuckerman, D.O. ("Dr. Zuckerman"), a physician who at all times material to the facts and matters alleged herein is licensed and engaged in the practice of medicine in and around Shreveport, Louisiana, had agreed to serve as the Medical Director of the Longevity Center in Shreveport, which was owned and operated by a registered nurse. During the course of an onsite investigation by Board staff, the nurse was found to be administering Botox to a patient in the absence of physician supervision. The nurse admitted to the investigators that she was the primary provider at the Longevity Center and regularly administered both Botox and other Dermal Fillers without a physician evaluation, order or physical presence. As the Medical Director, Dr. Zuckerman was responsible for assuring that the care provided to patients was performed by appropriately trained and licensed individuals. He allowed this individual to use his name in promoting her practice and did not take steps to prevent her from engaging in the unauthorized practice of medicine.

Upon notice of the investigation Dr. Zuckerman discontinued the conduct in question, and severed all professional relationships with the nurse in question. In a subsequent meeting with the DOI, Dr. Zuckerman stated that he did not condone the behavior of the nurse, he did not authorize her to perform these procedures, nor did he profit financially from her performance of the procedures. Nevertheless, Dr. Zuckerman acknowledges that he did not fulfill his professional obligations as a Medical Director.

Predicated upon the foregoing information, the Investigating Officer assigned by the Board with respect to this matter determined that reasonable grounds existed such that a formal Administrative Complaint could be filed against Dr. Zuckerman, charging him with a violation of the Louisiana Medical Practice Act (the "Act"), pursuant to La. Rev. Stat. §37:1285A(13), and

EXHIBIT A

(18).[1]

As evidenced by his subscription hereto, Dr. Zuckerman acknowledges the substantial accuracy of the foregoing information and that such information and acknowledgement would constitute probable cause for the institution of administrative proceedings against his medical license pursuant to Administrative Complaint, and that proof of such information upon an administrative evidentiary hearing could establish grounds under the Act, La. Rev. Stat. §§37:1285(A)(13), and (18), respectively for the suspension, revocation or imposition of such other terms, conditions or restrictions on his license to practice medicine in the state of Louisiana as the Board might deem appropriate.

Recognizing his right to have notice and administrative adjudication of such charges, at which time Dr. Zuckerman 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. Zuckerman, nonetheless, hereby waives his right to notice and formal adjudication and pursuant to La. Rev. Stat. § 49:955(D), consents to entry of the Order set forth hereinafter. Dr. Zuckerman also acknowledges that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951 *et seq.*, or which he may be afforded by any other law to contest his agreement to or the force and effect of the Board's investigation or this Consent Order in any court or other forum. By his subscription hereto, Dr. Zuckerman 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. Zuckerman 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 such complaint should the Board decline to approve this Consent Order.

Based upon the information provided, the Board has concluded that the public interest would be properly protected and served by allowing Dr. Zuckerman to maintain his license subject to appropriate specified terms, conditions and restrictions. In consideration of this finding, accordingly, and on the recommendation of the Investigating Officer, the Board has concluded that its responsibility to insure the health, safety and welfare of the citizens of this state, pursuant to La. Rev. Stat. §37:1261, will be effectively served by entry of the Order set forth hereinafter by consent. 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);

---

[1] Pursuant to La. Rev. Stat. §37:1285A, the Board may suspend, revoke, or impose probation or other restrictions on the license of an individual licensed to practice medicine in the State of Louisiana as a result of: (13) "[U]nprofessional conduct;"" and (18) "[k]nowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or . . . lending one's name to an illegal practitioner."

IT IS ORDERED that Victor Jay Zuckerman, DO, who is licensed to practice medicine in the state of Louisiana, as evidenced by license number 000189, is hereby ***OFFICIALLY REPRIMANDED*** for the conduct identified hereinabove, provided, however, that such license and Dr. Zuckerman's continuing exercise of rights and privileges there under shall be conditioned upon his acceptance of and strict compliance with the following terms, and conditions:.

(1) **Continuing Medical Education - Ethics and Professionalism Course**
Within within six (6) months of the effective date of this Order Dr. Zuckerman shall attend and successfully complete a course in medical ethics and professionalism. All courses required by this provision shall be pre-approved by the Board or its designee.

(2) **Payment of Fine.** Within six (6) months of the effective date of this Order Dr. Zuckerman shall pay to the Board a fine in the amount of Two Thousand ($2,000) dollars.

(3) **Effect of Violation/Sanction.** By his subscription hereto, Dr. Zuckerman acknowledges that his receipt of written notification that the Board has received apparently reliable information 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 pending a hearing before the Board and the conclusion of the administrative proceedings by issuance of a final decision following administrative adjudication of such charges.

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

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

Signed in New Orleans, Louisiana, on and effective this 18th day of March, 2013.

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

By: _____
MELVIN G. BOURGEOIS, M.D.
President

Acknowledgement and Consent
Follows on Next Page

Acknowledgement and Consent
Follows on Next Page

CERTIFIED TRUE COPY
Docket Clerk
Louisiana State Board of Medical Examiners
Date 4-26-13

STATE OF LOUISIANA
PARISH OF Ouachita

ACKNOWLEDGMENT
AND CONSENT

I, VICTOR JAY ZUCKERMAN, DO, hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 13 day of Feb, 2013.

VICTOR JAY ZUCKERMAN, DO

WITNESSES:

Signature

Lanetta Basham
Typed Name

2211 N 7th St
Address

West Monroe, La 71291
City/State/Zip Code

Signature

T. Willis
Typed Name

211 N. 7th St.
Address

West Monroe, LA 71291
City/State/Zip Code

Sworn to and subscribed before me this 13th day of February, 2013, in the presence of the two stated witnesses.

Notary Public (Signature and Seal)

DANA MCCARTHY, NOTARY ID #062848

Printed Name/Notary or Bar Number

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

ROGER L. COLLINS, M.D.

ORDER OF CONTINUANCE

THIS MATTER came on regularly for hearing on November 13, 2013, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Roger L. Collins, M.D. (hereinafter "Licensee") through his attorney, Eric R. Price. 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 16, 2014.

SO ORDERED, this the 13th day of November, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: _____

S. RANDALL EASTERLING, M.D.
PRESIDENT

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
November 13, 2013

AGENDA ITEM: Hearing in the case of Michael A. White, M.D.

The Board finds Dr. White guilty of Count I and not guilty of Count II of the Summons and Affidavit.

VOTING FOR COUNT I

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
Larry B. Aycock, M.D.	X			
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
Virginia M. Crawford, M.D.				
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			

S. Randall Easterling, M.D.
President

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
November 13, 2013

AGENDA ITEM: Hearing in the case of Michael A. White, M.D.

The Board finds Dr. White guilty of Count I and not guilty of Count II of the Summons and Affidavit.

VOTING FOR COUNT II

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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		

S. Randall Easterling, M.D.
President

EXECUTIVE SESSION
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
November 13, 2013

AGENDA ITEM: Hearing in the case of Michael A. White, M.D.

Upon a motion made by Dr. Crawford, seconded by Dr. Mayo and carried, the Board extended the time for completion of CME and payment of Board fines for 6 months from the time of DEA reinstatement hearing which is scheduled for January. The stay of suspension remains intact.

VOTE:	FOR	AGAINST	ABSTAIN	ABSENT
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			

Upon a motion made by Dr. Crawford, seconded by the Mayo, and carried the Board came out of Executive Session.

S. Randall Easterling, M.D.
President

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

MICHAEL ALEX WHITE, M.D.

DETERMINATION AND ORDER

THIS MATTER came on regularly for hearing on November 13, 2013, 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 October 1, 2013, by issuance of a Summons and Affidavit against Michael Alex White, M. D. (hereinafter "Licensee") setting forth two (2) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83.

Licensee was present, represented by Honorable Rodney Ray. 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 S. Randall Easterling, M.D. President; William S. Mayo, D.O., Larry B. Aycock, 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, was licensed to practice medicine in the State of Mississippi on July 8, 1986, by issuance of Mississippi Medical License No. 11125, said license is current until June 30, 2014. However, Licensee is not currently registered with the Drug Enforcement Administration (DEA) to administer, dispense or prescribe controlled substances in any schedule. Licensee surrendered his DEA Certificate Number BW3923009 on March 20, 2012.

2. That as a result of complaints and inquiries from pharmacies, relatives of patients and law enforcement officers concerning Licensee's prescribing of Phentermine HCL 37.5mg (Adipex-P) for treatment of weight loss, a joint investigation was conducted by members of the Investigative Division of the Board, the United States Drug Enforcement Administration (DEA) Tactical Diversion Squad and Mississippi Bureau of Narcotics. The investigation included interviewing past and current patients of Licensee and sending undercover DEA Agents into Licensee's clinic for the purpose of obtaining prescriptions for Phentermine, all for the purpose of determining the extent of Licensee's compliance with the Board's Rules and Regulations Governing the Use of Diet Medication.

3. That following the aforementioned investigation, Licensee was summoned to appear before the Board on January 19, 2012, to answer charges that Licensee was guilty of administering, dispensing, or prescribing narcotic drugs or other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of

legitimate professional practice; unprofessional conduct, which includes being guilty of dishonorable or unethical conduct likely to deceive, defraud or harm the public; and violation of the Rules and Regulations of the Board "Pertaining to Prescribing, Administrating and Dispensing of Medication." Following the hearing, the Board entered its order dated January 19, 2012. The Board found Licensee guilty of Counts 1,7,11,15, and 19 of the Summons and Affidavit as a result of Licensee initiating treatment utilizing a Schedule IV controlled substance without having performed a review of the patient's prior medical and weight-loss program records to determine that the patient had 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 had been ineffective; Licensee was found guilty of Counts 2,8,12,16,20 of the Summons and Affidavit as a result of Licensee's failure to obtain a thorough history or complete a thorough physical examination prior to initiating treatment utilizing a Schedule IV controlled substance; Licensee was found guilty of Count 3 and 21 of the Summons and Affidavit as a result of Licensee dispensing the same controlled substance anorectic to a patient who has failed to lose weight while under treatment with said controlled substance over a period of thirty (30) days; Licensee was found guilty of Counts 5,9,13,17,and 22 of the Summons and Affidavit for dispensing drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice; Licensee was found guilty of Counts 6,10,14,18 and 23 of the Summons and Affidavit for unprofessional conduct, which includes, but not limited to any dishonorable or unethical conduct likely to deceive, defraud or harm the public;

4. Licensee was found not guilty of Count 4.

5. That based upon the findings of fact and conclusions of law as stated above, the Mississippi medical license issued to Licensee was suspended for a period of six (6) months, provided, however, the suspension was stayed and Licensee placed on probation for as long as Licensee remained in compliance with certain conditions. First, within six (6) months from the date of the Order, Licensee was directed to attend and successfully complete courses designated as American Medical Association (AMA) Category I Continuing Medical Education (CME) in the proper prescribing of controlled substances, ethics and medical record keeping, with said courses approved in advance by the Executive Director of the Board. Following completion of these courses, Licensee was directed to submit to the Board documentary proof of successful completion. This is in addition to the forty (40) hours of AMA Category I CME requirements as cited in Chapter 07 of Section 1, Rule 100 of the Board's Rules and Regulations. Following completion of the CME and six (6) month stayed suspension, Licensee was directed to appear before the Executive Committee of the Board so as to discuss and review the course work and Licensee's compliance with the Rules and Regulations of the Board.

6. Licensee was further ordered to reimburse the Board for all costs not to exceed $10,000 pursuant to Miss. Code Ann., Section 73-25-30. Licensee was advised of the total assessment of $10,000 on April 11, 2012, and was directed to issue 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.

7. Licensee has failed to comply with the aforementioned conditions as set forth in the January 19, 2012 Determination Order. Specifically, Licensee failed to submit proof of successful completion of Continuing Medical Education (CME) hours; failed to communicate with the Board as to the status of same; and failed to reimburse the Board for all costs after being notified on April 11, 2012.

CONCLUSIONS OF LAW

Based on the Finding of Fact as enumerated above, Licensee is guilty of Count 1 of the Summons and Affidavit. That is, Licensee failed to comply with and is in violation of an existing Board Order, Stipulation or Agreement, all in violation of Miss. Code Ann., Section 73-25-29(13).

The Board finds that Licensee is not guilty of Count 2 of the Summons and Affidavit.

ORDER

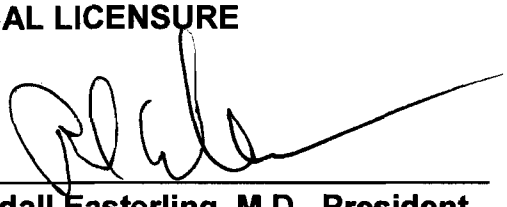
IT IS THEREFORE, ORDERED that based upon the findings of fact and conclusions of law above, the stay of suspension of license as provided for in the Board's Determination and Order of January 19, 2012, shall be continued until ordered otherwise by the Board. Further, Dr. White shall have an additional six (6) months from the date of the upcoming administrative hearing for reinstatement of his Drug Enforcement Administration (DEA) Uniform Controlled Substances Registration Certificate, to (i) complete the previously mandated continuing medical education and (ii) pay the ten thousand dollar ($10,000.00) assessment. Dr. White or his counsel shall advise the Board in writing as to when the DEA reinstatement hearing is scheduled and conducted. All other restrictions and conditions imposed by the January 19, 2012, Determination and Order shall remain in full force and effect.

IT IS FURTHER ORDERED, that Dr. White shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Mississippi Code Ann, Section 73-25-30. Dr. White 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 Dr. White or his Counsel, Honorable Rodney Ray. Because Dr. White was informed of this decision following Board deliberations, the Order shall be given immediate effect.

SO ORDERED, this the 13th day of November, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

BY: 

S. Randall Easterling, M.D., President

BEFORE THE MISSISSPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

LON F. ALEXANDER, M.D.

ORDER OF PROHIBITION

WHEREAS, LON F. ALEXANDER, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 10954, said number valid until June 30, 2014;

WHEREAS, on October 15, 2013, the Mississippi State Board of Medical Licensure (Board) received a letter from the Mississippi Professional Health Program (MPHP) regarding Licensee. MPHP informed the Board that MPHP had indefinitely withdrawn advocacy for Licensee, effective October 14, 2013. Licensee was under his second Recovery Contract Agreement (RCA) in five years;

WHEREAS, paragraph 21 of the RCA dated September 25, 2012, states, in part:

> *In the event I* {Licensee} *should relapse or fail to comply with any of the conditions of this Agreement, the MSBML shall have the authority, with the recommendations from the MPHC, to immediately prohibit me from practicing medicine until such time as the MSBML and MPHP determines that I am able to return to the practice medicine. In so doing, the MSBML and the MPHP may require me to undergo further evaluation.*

WHEREAS, by virtue of violation of the aforementioned RCA, the Board has the authority to prohibit the Licensee from practicing medicine until such time as the Board determines that Licensee may return to the practice of medicine;

NOW, THEREFORE, IT IS HERBY ORDERED, that, as a result of the aforementioned letter and Licensee's well documented history of non-compliance as set forth by the affidavit, Licensee shall be prohibited from the practice of medicine until such time as the Board determines that Licensee may 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 LON F. ALEXANDER, M.D., and shall be effective immediately upon receipt thereof.

ORDERED this the 23rd day of October, 2013.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

H. Vann Craig, M.D.
Executive Director

I, Todd Pohnert, Investigator of the Mississippi State Board of Medical Licensure, did personally serve an original copy of this Order of Prohibition to Lon F. Alexander, M.D., at 12:10 pm on October 24, 2013.

Todd Pohnert

BEFORE THE MISSISSPPI STATE BOARD OF MEDICAL LICENSURE

IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

LON F. ALEXANDER, M.D.

AFFIDAVIT

STATE OF MISSISSIPPI

COUNTY OF HINDS

I, Todd Pohnert, Investigator, Mississippi State Board of Medical Licensure (Board), do hereby make oath that I have reason to believe and do believe:

1. That LON F. ALEXANDER, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 10954, said number valid until June 30, 2014.

2. That on May 12, 2008, Licensee entered into his first Recovery Contract Agreement (RCA) with the Mississippi Professional Health Program (MPHP). Licensee signed the contract after successfully being discharged from the Betty Ford Center with diagnosis of Sedative/Hypnotic Dependency and Opiate Dependency.

3. That after completing a three-day substance use evaluation at Palmetto Addiction Recovery Center in Rayville, Louisiana on March 12, 2012, following a relapse due to the use of Tramadol, Licensee subsequently was re-admitted for residential treatment at the Betty Ford Center on April 19, 2012. Licensee was offered his second five-year RCA on June 11, 2012.

4. That Licensee was required to meet with the MPHC on September 10, 2012, because of noncompliance. Licensee had missed call-ins for random urine drug screens, missed attendance at Caduceus meetings, failed to continue after-care therapy, failed to pay his bill for services to the UMC Toxicology Lab, and failed to turn in his support group attendance records.

5. That on October 3, 2013, in accordance with Licensee's RCA, a Board Investigator ran a Prescription Monitoring Program (PMP) profile on Licensee's prescribing of controlled substances. This report showed that Licensee prescribed controlled substances, specifically (Dextroamphetamine/Amphetamine 20mg, Temazepam 10mg, Alprazolam 2mg, Hydrocodone/Acetaminophen 10-650mg, Zolpidem Tartrate 10mg), to his spouse in violation of Paragraph 1, which reads, in part:

> *I* {Licensee} *agree not to prescribe, dispense or administer to myself or family members any drug having addiction-forming or addiction-sustaining liability.*

6. That on October 15, 2013, the Board received a letter from MPHP Director Scott Hambleton, M.D., stating that MPHP could no longer advocate for Licensee due to sequence of events which led to this decision. Dr. Hambleton stated that it is the opinion of MPHC that MPHP cannot effectively monitor Licensee and that his continued practice of medicine represents a "definite threat to the public health."

7. Paragraph 21 of the RCA dated September 25, 2012, attached as Exhibit "A," states, in part:

In the event I {Licensee} *should relapse or fail to comply with any of the conditions 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 the MPHP determines that I am able to return to the practice of medicine. In doing so, the MSBML and MPHP may require me to undergo further evaluation.*

8. By his signature on the RCA, Licensee understands and recognizes the Board's authority to immediately prohibit Licensee from the practice of medicine until such time that the Board determines Licensee's fit to return to the practice of medicine.

Todd Pohnert
Investigator
Mississippi State Board of Medical Licensure

SWORN TO AND SUBSCRIBED BEFORE ME, this the 23rd day of October, 2013.

Notary Public

FRANCES E CARRILLO
NOTARY PUBLIC
ID No. 34329
My Comm Expires
Apr 24, 2017
RANKIN COUNTY
STATE OF MISSISSIPPI

MISSISSIPPI PROFESSIONALS HEALTH PROGRAM

FIVE (5) YEAR RECOVERY CONTRACT AGREEMENT

DATE: June 11, 2012

NAME: Lon F. Alexander, MD MPHP NO. 0268-P

RESIDENCE ADDRESS: XXXXXXXXXXXXXXX
Philadelphia, MS 39350

HOME PHONE NUMBER: XXXXXXXXXXXXXXX

E-MAIL ADDRESS: braneman@aol.com

PRACTICE LOCATION ADDRESS: 1314 19th Avenue
Meridian, MS 39301

OFFICE PHONE NUMBER: XXXXXXXXXXXXXXX

OFFICE FAX NUMBER:

CELL NUMBER and/or PAGER: XXXXXXXXXXXXXXX

SPECIALTY: Neurosurgery

CURRENT HOSPITAL PRIVILEGES: Forrest General and Rush Foundation Hospital

EXHIBIT "A"

408 West Parkway Place • Ridgeland, Mississippi 39157-6010 • Ph: 601-420-0240 • 1-800-844-1446 • Fax: 601-420-0290
www.msprofessionalshealth.org

IN CONSIDERATION of the Mississippi Professionals Health Program (MPHP) agreeing to assume an active advocacy role on my behalf with the Mississippi State Board of Medical Licensure (MSBML), or other licensing boards, hospital boards, managed care panels, malpractice carriers and other appropriate agencies, I, **Lon F. Alexander, MD,** hereby agree to comply with the following terms and conditions: ____ (Initials)

1. **Total Abstinence.** I agree to abstain completely from the use of any medications, alcohol and other mood-altering substances including non-approved over-the-counter medications. Other than cases of medical emergencies, I agree to abstain from the use of any mood-altering, addictive, or potentially addictive prescription medications, including amphetamine preparations, without written permission from MPHP. ____ (Initials)

   I have been provided with a list of approved over-the-counter medications. (Appendix A). ____ (Initials)

   I agree not to prescribe, dispense or administer to family members or myself any drug having addiction-forming or addiction-sustaining liability. I understand it is the strong recommendation of the MSBML that no recovering physicians treat themselves or family members in any way. ____ (Initials)

2. **Urine and/or Tissue Screens.** I agree to provide random urine and/or blood drug screens as directed by the MPHP/MSBML in addition to any other screens, which may be obtained by other agencies. I understand the MSBML will receive a copy of any positive screens. I understand that I am responsible for all costs related to drug screening, and that failure to pay for screens is a violation of my contract. I agree to submit to polygraph testing, or provide hair or fingernail samples for analysis, if further verification of recovery is required. ____ (Initials)

3. **Term.** I agree to the terms of this contract for a period of **five (5) years** (hereinafter "Term"). I will abide by all stipulations in this contract and any subsequent recommendations of the MPHC/ MPHP during my continuing care-monitoring phase. Upon expiration of the Term, all requirements and conditions imposed by this contract will remain in full force and effect until such time as I personally appear before the MPHC of the MPHP for the purpose of discussing the status of my compliance and/or recovery, including extension, renewal or discharge from this contract. ____ (Initials)

4. **Primary Care Physician.** I have selected [xxxxxxxxxx **], MD,** as my Primary Care Physician (subject to approval by MPHC), located at [xxxxxxxxxx **], Jackson, MS 39209.** Office phone: **(6** xxxxxxxxxx . ____ (Initials)

I agree to provide the MPHP and MSBML with a release for monitoring, any treatment provided to me by my Primary Care Physician and/or any specialist he may refer me to. ___ (Initials)

I agree to provide a copy of this Recovery Contract to my Primary Care Physician, at the first visit, after the execution of this contract. ___ (Initials)

I agree that in the event my Primary Care Physician or Specialist determines that it is necessary to administer, or prescribe to me any scheduled drug, or any drug having addiction-forming or addiction-sustaining liability, the treating Physician shall notify the MPHP Medical Director by phone, fax or in writing, within twenty-four (24) hours of administration, or issuance of any prescription. Other than medication administered directly to me, for immediate use, I agree to accept only written prescriptions for any controlled substance(s), to be used in the future. I agree not to take samples or dispensed medication for any controlled substance(s). This requirement shall also apply to any care rendered to me by a dentist. ___ (Initials)

It is my responsibility to ensure that my **Primary Care Physician** or **Specialist** notifies MPHP within 24 hours of administration or issuance of any scheduled drug or any drug having addiction-forming or addiction-sustaining liability. ___ (Initials)

5. **Psychiatrist/Therapist.** I agree to see xxxxxxxxxx **, MD,** ~~psychiatrist~~ psychologist, located at xxxxxxxxxx xxxxxxxxxx **, Jackson, MS 39211**, office phone **(601** xxxxxxxxx, for ongoing psychiatric care. The frequency shall be determined by MPHP and by my psychiatrist. Therapy will conclude upon mutual agreement of my psychiatrist and MPHP. ___ (Initials)

   It is my responsibility to ensure that my **Psychiatrist/Therapist** sends quarterly reports to MPHP. ___ (Initials)

6. **Physician Medication Monitor.** I understand it is my responsibility to clear any and all medication prescribed by any provider through an approved Monitoring Physician. If appropriate, MPHC may approve my primary care physician to serve in both capacities. My Monitoring Physician is xxxxxxxxxx **, MD,** located at xxxxxxxxxx **, Meridian, MS 39305.** Office phone: **(6** xxxxxxxxxx . ___ (Initials)

7. **Workplace Monitor.** I agree to a work site monitor as a condition of continuing advocacy. Said Monitor will send quarterly reports to the Medical Director regarding my ongoing progress. Examples of information reported include the following: appearance at work, any perceived problems, incident reports or other concerns. Said Monitor should have frequent contact with me, preferably be in the same field, be a neutral party, be sensitive to confidentiality and should not be a partner or subordinate. Said Monitor must be approved by the MPHP. I further agree to authorize and consent to the release of any work site related information to the MPHP. My Workplace Monitor is xxxxxxxxxx **, MD,** located at xxxxxxxxxx **, Meridian, MS 39305.** Office phone: **(6** xxxxxxxxxx . ___ (Initials)

   It is my responsibility to ensure that my **Workplace Monitor** sends quarterly reports to MPHP. ___ (Initials)

8. **Focus Continuing Care.** I agree to follow up with Focus Continuing Care through the Betty Ford Center and the Betty Ford Center alumni. ___ (Initials)

9. **Self Help Group Attendance.** I agree to attend a self-help group such as AA or NA three (3) times per week. I agree to document these meetings and send to MPHP, by mail or fax on the last day of each month. ___ (Initials)

   I agree to participate in continuing care group therapy at Caduceus Club meetings each week. My group facilitator is **John Mutziger, DO.** ___ (Initials)

   I agree to attend the Annual Caduceus Club Retreat and other special functions of the MPHP. ___ (Initials)

10. **Reporting Requirements.** I agree to contact the office of the MPHP by phone at least once a month. ___ (Initials)

11. **Medical Release and Authorization.** I agree to provide appropriate release forms for urine drug screen results, treatment center records, therapist reports, and other written and verbal information required by MPHP to document my compliance with this contract. ___ (Initials)

    I hereby authorize the treatment center wherein I received treatment for chemical dependency, its administrator, medical staff and personnel, or any other treatment center or hospital to release to the MPHP/MSBML all records of any treatment. Additionally, I shall provide the MPHP/MSBML with authorization to obtain medical information for the purpose of monitoring or reviewing treatment or therapy that I have received from the treatment center. I agree and understand there must be a free flow of information to and from the MPHP and MSBML, necessary to ensure my compliance with this Agreement, but most importantly, to ensure my continued recovery. In this regard, I hereby agree to execute any other medical releases necessary to accomplish this goal. At anytime, the MPHP and MSBML may freely communicate with, via telephone, facsimile, or personal interview, any individual or entity involved in my treatment and/or recovery, including but not limited to, any employee and/or representative of MPHP/MSBML, any hospital or healthcare facility in which I have received treatment, any physician or other healthcare entity from which I have received medical and/or dental care, business associates, partners, friends and family. In so doing, I waive all privileges and rights to confidentiality, which I would otherwise possess with respect thereto. This release and authorization is specifically granted in compliance with 42 U.S.C. §290(dd-2) (Confidentiality of Record of the Identity, Diagnosis, Prognosis and Treatment of Substance Abuse Patients) and 42 C.F.R. Part 2 (Regulations for Confidentiality of Alcohol and Drug Abuse Patient Records). ___ (Initials)

    Any refusal on my part to execute a medical release deemed necessary to accomplish the above exchange of information or any act on my part, which may be interpreted by MPHP or MSBML as a revocation of a previously executed release shall be deemed a violation of this Agreement and shall be immediately reported to the MSBML. ___ (Initials)

12. **Honest Disclosure.** I understand my ethical and contractual obligation to honestly and completely answer all application questions regarding my recovery and participation with MPHP. Such questions may appear on application or reappointment materials with practice groups, hospital credentialing groups, state licensing boards, malpractice carriers, etc. Infractions regarding dishonesty are viewed seriously and will result in a report to the Board of Medical Licensure and possible recommendation for further treatment, contract extension or loss of advocacy. WA (Initials)

13. **Progress Reports/Access to Agreement.** I understand that a copy of all reports and/or contracts shall be forwarded to the Executive Director of the MSBML. WA (Initials)

    I understand MPHP shall provide the MSBML with reports on a quarterly basis (or more often if requested to do so by the MSBML). Physicians referred to the MPHP by the Board will be reported on by name. Physicians referred to MPHP via other routes will be **reported by number only,** however, the identity of the participant may be known to the Executive Director or the administrative staff of the MSBML. WA (Initials)

14. **Periodic Re-evaluation.** I agree to appear before the MPHC of the MPHP located in Ridgeland, Mississippi for periodic re-evaluation when scheduled by the MPHC. WA (Initials)

15. **Family and Spouse.** I will actively encourage my SPOUSE/SIGNIFICANT OTHER/FAMILY to involve themselves in continuing, supportive care through Al-Anon or other sources. WA (Initials)

16. **Statutory Compliance.** I agree to obey all federal, state and local laws and all rules governing the practice of medicine in the State of Mississippi. WA (Initials)

17. **Notification of Change in Status.** I agree to notify the MPHP/MSBML of any change in my physical or mental health, my residence or place of employment. WA (Initials)

    I agree that MPHP hereby has my authorization to notify the appropriate State Licensure Board and/or Professionals Health Program of my residence and/or practice in that state. WA (Initials)

    I further agree to notify the MSBML and MPHP in writing, within ten (10) days prior to departing this state to practice in another state. Unless, I affiliate with a recovery program recognized by the MSBML and MPHP, periods of residency or practice outside Mississippi may not apply to the reduction of time periods specified in this monitoring Contract Agreement. WA (Initials)

18. **Payment of Costs.** I agree to pay annual MPHP dues and fees when billed. WA (Initials)

19. **Financial Responsibility.** I agree to be responsible regarding my financial obligations. I understand MPHC considers financial responsibility, in general, an important element of recovery. Specifically, I accept my financial responsibility to MPHP, my licensure board, laboratory screening services, therapist, psychiatrists, etc. Further, treatment facilities often

extend treatment to program participants on credit in an effort to assist them with their recovery and the opportunity to resume work. MPHP fully expects that any outstanding debt to treatment providers/organizations be satisfied in a responsible and timely manner. WT (Initials)

20. **Subpoena for Records.** Unless directed otherwise by the Program Participant, MPHC resists the release of subpoenaed participant records to the fullest extent of the law. I understand that I am financially liable for all MPHP costs and attorney fees in such matters. WT (Initials)

21. **Breach of Contract and/or Relapse.** I understand that ANY breach of this contract will be grounds for re-evaluation by the MPHP with an immediate report to the MSBML.
WT (Initials)

    I understand that if I experience a relapse, this fact shall be immediately reported by the MPHP to the Executive Director of the MSBML. Such report will include, or be followed by MPHP's response to the relapse and its recommendations regarding the relapse. I understand that MPHP's practice-related recommendations regarding licensure/DEA issues are non-binding to the MSBML. WT (Initials)

    In the event I should relapse or fail to comply with any of the conditions 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 MPHP determines that I am able to return to the practice of medicine. In so doing, the MSBML and MPHP may require me to undergo further evaluation. WT (Initials)

    In the event of a relapse or violation of this agreement, any action by the MSBML may be deemed disciplinary action, and all documents relating thereto, including this Agreement, shall thereafter be deemed public record and reportable to the Federation of State Medical Boards, the National Practitioner Data Bank and other entities requiring MSBML reporting.
WT (Initials)

22. **Hold Harmless Agreement.** As an express condition for participation, I hereby release and forever discharge the MPHP, MPHC and the MSBML, their respective agents, representatives, employees, staff members, and all personnel designated by the MPHP, MPHC or MSBML to assist me, and each of them and all of them, past, present and future from any claims, demands, obligations, costs of any kind or nature whatsoever, arising out of any action of commission or omission in connection with my participation in the Mississippi Professionals Health Program.
WT (Initials)

CHECKLIST:

1. Random, observed, urine drug screen as directed by MPHP/MSBML.
2. Monthly calendar of AA and Caduceus Club meetings.
3. Annual fees when billed.
4. Annual Caduceus Club Retreat attendance.
5. Quarterly reports from Psychiatrist and Workplace Monitor.

NOTE: ALTERATIONS OF THIS CONTRACT CANNOT BE MADE WITHOUT PRIOR WRITTEN APPROVAL FROM THE MEDICAL DIRECTOR AND/OR THE MPHC. ____ (Initials)

9/10/12
Medical Director, MPHP Date

9/13/12
MPHC Chairman Date

09/20/12
Executive Director, MSBML Date

9/1/12
Program Participant Date

MISSISSIPPI PROFESSIONALS HEALTH PROGRAM

October 15, 2013

H. Vann Craig, MD, Executive Director
Mississippi State Board of Medical Licensure
1867 Crane Ridge Dr, Suite 200-B
Jackson, MS 39216

Re: Lon Alexander, MD

Dear Dr. Craig:

The purpose of this letter is to inform you that the Mississippi Professionals Health Program (MPHP) has indefinitely withdrawn advocacy for Dr. Alexander, effective October 14, 2013.

I have included a brief timeline which outlines Dr. Alexander's history with the Mississippi Professionals Health Program (MPHP) as well as a description of the current situation.

As you will recall, in 2008, Dr. Alexander came to the attention of the Mississippi State Board of Medical Licensure (MSBML) and the MPHP after notification by medical staff at St. Dominic Hospital that Dr. Alexander was suspected of abusing opioids and benzodiazepines. Dr. Alexander successfully completed residential treatment at the Betty Ford Center, on May 10, 2008. Dr. Alexander signed his first 5-year Recovery Contract Agreement (RCA) with MPHP on May 12, 2008.

Dr. Alexander completed a three-day substance use evaluation at Palmetto Addiction Recovery Center, in Rayville, LA on March 12, 2012, after he relapsed to use of tramadol. He was subsequently referred for residential treatment at the Betty Ford Center on April 19, 2012. He was discharged on May 30, 2012, after successfully completing the program. He was offered his second 5-year RCA dated June 11, 2012.

Dr. Alexander was required to meet with MPHC on September 10, 2012, because of noncompliance. He had several missed call-ins for random urine drug screens, missed attendance at Caduceus meetings, failure to continue after-care therapy, failure to pay his bill for services to the UMC Toxicology Lab, and failure to turn in his support group attendance records. MPHC informed him that similar compliance issues preceded his last relapse, and they were extremely concerned, because these behaviors were manifesting themselves a few months after his most recent treatment. Dr. Alexander was informed that future non-compliance would result in

potential loss of MPHP advocacy, with referral to the MSBML.

On October 7, 2013, I was contacted by the Mississippi State Board of Medical Licensure, and notified that Dr. Alexander had been calling in prescriptions for his wife, for various controlled substances, including opioids, benzodiazepines and amphetamines, intermittently, for the last three years, according to a Prescription Monitoring Report. Dr. Alexander's wife was under the care of her psychiatrist, Dr. Mark Webb, who was also prescribing amphetamines and benzodiazepines. Dr. Alexander did not disclose this to the treatment providers at Betty Ford Center, to MPHC, or to any staff at MPHP.

On October 14, 2013, Dr. Alexander appeared before the Mississippi Professionals Health Committee (MPHC) and was informed that MPHP would withdraw advocacy.

It is the opinion of MPHC that MPHP cannot effectively monitor Dr. Alexander, and that his continued practice of medicine represents a definite threat to the public health. We are referring his case to your office for final disposition.

If I may be of any further assistance, please do not hesitate to call.

Sincerely,

Scott Hambleton, MD

Scott Hambleton, MD
Medical Director

SLH/lmd

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE

OF

DOMINICK TRINCA, M.D.

ORDER OF PROHIBITION

WHEREAS, Dominick Trinca, M. D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 14017, said number valid until June 30, 2014; and

WHEREAS, due to a history of treatment and relapse of chemical dependency, on September 12, 2012, Licensee signed a third five-year Recovery Contract Agreement (RCA) 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); and

WHEREAS, on October 15, 2013, the Board received a letter from the MPHP, advising that MPHP had indefinitely withdrawn advocacy for Licensee, effective October 15, 2013 based on violation of the current RCA, as evidenced by the supporting affidavit attached hereto; and

WHEREAS, paragraph 24 of the RCA dated September 10, 2012, states in part: "I understand that any breach of this contract will be grounds for re-evaluation by the MPHP with an immediate report to the MSBML. In the event I should relapse or fail to comply with any of the conditions 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 MPHP determines that I am able to return to the practice of medicine. In doing so, the MSBML and MPHP may require me to undergo further evaluation."

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 Dominick Trinca, M.D., and shall be effective immediately upon receipt thereof.

ORDERED, this the 22nd day of October, 2013.

H. Vann Craig

H. Vann Craig, M.D., Executive Director
Mississippi State Board of Medical Licensure

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE
OF
DOMINICK TRINCA, M. D.
AFFIDAVIT

I, Mickey Boyette, Investigator, Mississippi State Board of Medical Licensure, do hereby make oath that I have reason to believe and do believe:

1. That Dominick Trinca, M.D., hereinafter referred to as "Licensee," currently holds Mississippi Medical License Number 14017, said number valid until June 30, 2014.
2. That based on a diagnosis of alcohol, opioid and cocaine dependency, and sexual disorders, Licensee initially entered into a Recovery Contract Agreement (RCA) on February 13, 2006 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).
3. After completing eight (8) weeks of treatment at Behavioral Medicine Institute, (BMI) in Atlanta, Georgia, Licensee entered into a second RCA dated February 12, 2007, with the MPHC and the Board.
4. That on September 12, 2012, Licensee signed a third five-year RCA with MPHP due to Licensee prescribing Suboxone to a physician with a history of opioid dependence and repeated violations of his previous RCA's. Licensee was counseled by MPHC to be mindful of every aspect of his RCA, and that total compliance was necessary in order to receive advocacy from MPHP.
5. That on October 15, 2013, Scott Hambleton, M.D., Medical Director of the MPHP issued a letter to the Board's Executive Director notifying the Board the MPHC had indefinitely withdrawn advocacy for Licensee.
6. Paragraph 24 of the September 10, 2012 RCA, attached hereto as Exhibit "B," states in part: "I understand any breach of this contract will be grounds for re-evaluation by MPHP with an immediate report to the MSBML. In the event I

should relapse or fail to comply with any of the conditions of this agreement, the MSBML shall have the authority, with the recommendation of the MPHC, to immediately prohibit me from practicing medicine until such time as the MSBML and MPHP determines that I am able to return to the practice of medicine. In doing so, the MSBML and the MPHP may require me to undergo further evaluation."

7. By his signature on the September 10, 2012 RCA, Licensee understands and recognizes the Board's authority to immediately prohibit Licensee from the practice of medicine until such time that the Board determines Licensee is fit to return to the practice of medicine with reasonable skill and safety.

Based on the foregoing, the undersigned has reason to believe and does believe that the continued, unrestricted practice of Dominick Trinca, M. D., constitutes an immediate threat to the public.

Mickey Boyette, CMBI
Investigator
Mississippi State Board of Medical Licensure.

Sworn to and Subscribed Before me, this the 22nd Day of October, 2013.

Frances E. Carrillo
Notary Public

FRANCES E CARRILLO
NOTARY PUBLIC
ID No. 34328
My Comm Expires
Apr 24, 2017
RANKIN COUNTY
STATE OF MISSISSIPPI

MISSISSIPPI PROFESSIONALS HEALTH PROGRAM

FIVE (5) YEAR RECOVERY CONTRACT AGREEMENT

DATE: September 10, 2012

NAME: Dominic Trinca, MD MPHP NO. 0207-P

RESIDENCE ADDRESS: 227 Wetherbee Drive
Greenville, MS 38701

HOME PHONE NUMBER: 662-335-7435

E-MAIL ADDRESS: doctrinca@yahoo.com

PRACTICE LOCATION ADDRESS: Dr.Trinca Family Care Clinic
1440 Highway 1 South
Greenville, MS 38701

OFFICE PHONE NUMBER: 662-334-1111

OFFICE FAX NUMBER: 662-334-1161

CELL NUMBER and/or PAGER: 662-820-4363

SPECIALTY: General Medicine

CURRENT HOSPITAL PRIVILEGES: None

EXHIBIT "B"

408 West Parkway Place • Ridgeland, Mississippi 39157-6010 • Ph: 601-420-0240 • Fax: 601-707-3792
www.msprofessionalshealth.com

IN CONSIDERATION of the Mississippi Professionals Health Program (MPHP) agreeing to assume an active advocacy role on my behalf with the Mississippi State Board of Medical Licensure (MSBML), or other licensing boards, hospital boards, managed care panels, malpractice carriers and other appropriate agencies, I, **Dominic Trinca, MD,** hereby agree to comply with the following terms and conditions: DT (Initials)

1. **Total Abstinence.** I agree to abstain completely from the use of any medications, alcohol and other mood-altering substances including non-approved over-the-counter medications. Other than cases of medical emergencies, I agree to abstain from the use of any mood-altering, addictive, or potentially addictive prescription medications, including amphetamine preparations, without written permission from MPHP. DT (Initials)

   I have been provided with a list of approved over-the-counter medications. (Appendix A). DT (Initials)

   I agree not to prescribe, dispense or administer to family members or myself any drug having addiction-forming or addiction-sustaining liability. I understand it is the strong recommendation of the MSBML that no recovering physicians treat themselves or family members in any way. DT (Initials)

2. **Urine and/or Tissue Screens.** I agree to provide random urine and/or blood drug screens as directed by the MPHP/MSBML in addition to any other screens, which may be obtained by other agencies. I understand the MSBML will receive a copy of any positive screens. I understand that I am responsible for all costs related to drug screening, and that failure to pay for screens is a violation of my contract. I agree to submit to polygraph testing, or provide hair or fingernail samples for analysis, if further verification of recovery is required. DT (Initials)

3. **Term.** I agree to the terms of this contract for a period of **five (5) years** (hereinafter "Term") with an effective date of September 10, 2012. I will abide by all stipulations in this contract agreement and any subsequent recommendations of the Mississippi Professionals Health Committee (MPHC) and MPHP during my continuing care-monitoring phase. Upon expiration of the Term, all requirements and conditions imposed by this contract will remain in full force and effect until such time as I personally appear before the MPHC of the MPHP for the purpose of discussing the status of my compliance and/or recovery, including extension, renewal or discharge from this contract. DT (Initials)

4. **Primary Care Physician.** I have selected **Willie Lucas, MD,** as my Primary Care Physician (subject to approval by MPHC), located at **2361 Martin Luther King Drive, Greenville, MS 38701.** Office phone: **(662)334-9603.** DT (Initials)

I agree to provide the MPHP and MSBML with a release for monitoring, any treatment provided to me by my Primary Care Physician and/or any specialist he may refer me to. DT (Initials)

I agree to provide a copy of this Recovery Contract to my Primary Care Physician, at the first visit, after the execution of this contract. DT (Initials)

It is my responsibility to ensure that my physician provides a list of all my prescribed medications every_____. DT (Initials)

I agree that in the event my Primary Care Physician or Specialist determines that it is necessary to administer, or prescribe to me any scheduled drug, or any drug having addiction-forming or addiction-sustaining liability, the treating Physician shall notify the MPHP Medical Director by phone, fax or in writing, within twenty-four (24) hours of administration, or issuance of any prescription. Other than medication administered directly to me, for immediate use, I agree to accept only written prescriptions for any controlled substance(s), to be used in the future. I agree not to take samples or dispensed medication for any controlled substance(s). This requirement shall also apply to any care rendered to me by a dentist. DT (Initials)

It is my responsibility to ensure that my primary care physician or specialist notifies MPHP within 24 hours of administration or issuance of any scheduled drug or any drug having addiction-forming or addiction-sustaining liability. DT (Initials)

5. **Psychiatrist/Therapist.** I agree to see **Thomas Taylor, ED.D,** therapist, located at **1100 Highway 8 West, Cleveland MS 38732,** office phone **(662) 402-8395,** for ongoing therapy. The frequency shall be determined by MPHP and by my therapist. Therapy will conclude upon mutual agreement of my therapist and MPHP. DT (Initials)

   It is my responsibility to ensure that my **Psychiatrist/Therapist** sends quarterly reports to MPHP. DT (Initials)

   I agree to provide a copy of this agreement to my therapist at the first visit after signing this document. DT (Initials)

6. **Additional Monitoring.** I agree to return to the Behavioral Medicine Institute of Atlanta (BMI) every six (6) months, or as directed by Dr. Abel, to undergo polygraph testing for compliance with my sexual treatment program. Results of said testing will be shared with my wife, Jan, MPHP, Dr. Marion, and Sarah Gregg, RN, CARN. I understand I will receive ongoing assessment, monitoring and feedback designed to assist me, my employer/treatment providers and MPHP. This will include, but not limited to, the use of a chaperone with documentation, patient surveys, maintenance polygraphs, and any other safeguards for insuring that I will implement a "sexual harassment free" workplace. I understand there will exist a free flow of relevant information by and between those parties designated to monitor my progress and provide me timely feedback in an effort to affect a mutually beneficial, ongoing treatment process and successful workplace experience. DT (Initials)

7. **Professional Conduct and Sexual Relationships.** I agree to conduct myself according to the Code of Ethics of the American Medical Association and abstain from any type of exploitive behavior in both my personal and professional life. This includes abstaining from any type of seductive, sexual, romantic, or flirtatious behavior with any current or former patients, or relatives of my patients. DT (Initials)

8 **Appropriate Boundaries & Chaperones.** I agree to incorporate boundary recommendations in my practice. Specifically, I will seek to avoid dual relationships with my patients as much as possible. I will <u>not</u> under any circumstances, (i) treat any person with whom I have a romantic/sexual relationship or develop a romantic/sexual relationship with a patient, (ii) treat any person with whom I have an employer-employee relationship, (iii) provide gifts, money, loans, or other gratuities to any patient, or (iv) invite any patient into my residence. At all times, I will avoid any situations which could have the appearance of impropriety, exploitation or harm. I will treat patients only in an appropriate medical setting, including the appropriate use of a chaperone throughout the visit, as well as the physical, and to have said chaperone countersign my chart notes. At no time will I solicit patients from internet chat rooms. I will, at all times be mindful of the power dynamics of the doctor-patient relationship and the potential for abuse. When in doubt regarding potential boundary crossings, I will call MPHP. Maintenance of appropriate boundaries with patients and staff is my ethical and legal responsibility as a medical professional with a fiduciary duty. DT (Initials)

9. **Normal Scheduled Hours.** I agree to see NO patients outside the office, hospital, ER or at any other times outside my normal scheduled hours. Should my practice location or nature change, I will notify MPHP and MSBML immediately and modifications to my contract may be made. DT (Initials)

10. **Physician Medication Monitor.** I understand it is my responsibility to clear any and all medication prescribed by any provider through an approved Monitoring Physician. If appropriate, MPHC may approve my primary care physician to serve in both capacities. My Monitoring Physician is **Willie Lucas, MD, located at 2361 Martin Luther King Drive, Greenville, MS 38701.** Office phone: 334 9103. DT (Initials)

11. **Workplace Monitor.** I agree to a work site monitor as a condition of continuing advocacy. Said Monitor will send quarterly reports to the Medical Director regarding my ongoing progress. Examples of information reported include the following: appearance at work, any perceived problems, incident reports or other concerns. Said Monitor should have frequent contact with me, preferably be in the same field, be a neutral party, be sensitive to confidentiality and should not be a partner or subordinate. Said Monitor must be approved by the MPHP. I further agree to authorize and consent to the release of any work site related information to the MPHP. My Workplace Monitor is Kathy Davis, located at my office. Office phone: 662 334 1111. DT (Initials)

I agree to provide a copy of this contract agreement to my immediate supervisor or my workplace monitor. DT (Initials)

It is my responsibility to ensure that my **Workplace Monitor** sends quarterly reports to MPHP. DT (Initials)

12. **Self Help Group Attendance.** I agree to attend a self-help group such as AA, SA or SLA three (3) times per week. I agree to document these meetings and send to MPHP, by mail or fax on the last day of each month. DT (Initials)

    I agree to participate in continuing care group therapy at Caduceus Club meetings each week. My group facilitator is **Robert Love, MD.** DT (Initials)

    I agree to attend the Annual Caduceus Club Retreat and other special functions of the MPHP. DT (Initials)

13. **Reporting Requirements.** I agree to contact the office of the MPHP by phone at least once a month. DT (Initials)

14. **Medical Release and Authorization.** I agree to provide appropriate release forms for urine drug screen results, treatment center records, therapist reports, and other written and verbal information required by MPHP to document my compliance with this contract. DT (Initials)

    I hereby authorize the treatment center wherein I received treatment for chemical dependency, its administrator, medical staff and personnel, or any other treatment center or hospital to release to the MPHP/MSBML all records of any treatment. Additionally, I shall provide the MPHP/MSBML with authorization to obtain medical information for the purpose of monitoring or reviewing treatment or therapy that I have received from the treatment center. I agree and understand there must be a free flow of information to and from the MPHP and MSBML, necessary to ensure my compliance with this Agreement, but most importantly, to ensure my continued recovery. In this regard, I hereby agree to execute any other medical releases necessary to accomplish this goal. At anytime, the MPHP and MSBML may freely communicate with, via telephone, facsimile, or personal interview, any individual or entity involved in my treatment and/or recovery, including but not limited to, any employee and/or representative of MPHP/MSBML, any hospital or healthcare facility in which I have received treatment, any physician or other healthcare entity from which I have received medical and/or dental care, business associates, partners, friends and family. In so doing, I waive all privileges and rights to confidentiality, which I would otherwise possess with respect thereto. This release and authorization is specifically granted in compliance with 42 U.S.C. §290(dd-2) (Confidentiality of Record of the Identity, Diagnosis, Prognosis and Treatment of Substance Abuse Patients) and 42 C.F.R. Part 2 (Regulations for Confidentiality of Alcohol and Drug Abuse Patient Records). DT (Initials)

    Any refusal on my part to execute a medical release deemed necessary to accomplish the above exchange of information or any act on my part, which may be interpreted by MPHP or MSBML as a revocation of a previously executed release shall be deemed a violation of this Agreement and shall be immediately reported to the MSBML. DT (Initials)

15. **Honest Disclosure.** I understand my ethical and contractual obligation to honestly and completely answer all application questions regarding my recovery and participation with MPHP. Such questions may appear on application or reappointment materials with practice groups, hospital credentialing groups, state licensing boards, malpractice carriers, etc. Infractions regarding dishonesty are viewed seriously and will result in a report to the Board of Medical Licensure and possible recommendation for further treatment, contract extension or loss of advocacy. DT (Initials)

16. **Progress Reports/Access to Agreement.** I understand that a copy of all reports and/or contracts shall be forwarded to the Executive Director of the MSBML. DT (Initials)

I understand MPHP shall provide the MSBML with reports on a quarterly basis (or more often if requested to do so by the MSBML). Physicians referred to the MPHP by the Board will be reported on by name. Physicians referred to MPHP via other routes will be reported by number only, however, the identity of the participant may be known to the Executive Director or the administrative staff of the MSBML. DT (Initials)

17. **Periodic Re-evaluation.** I agree to appear before the MPHC of the MPHP located in Ridgeland, Mississippi for periodic re-evaluation when scheduled by the MPHC. DT (Initials)

18. **Family and Spouse.** I will actively encourage my SPOUSE/SIGNIFICANT OTHER/FAMILY to involve themselves in continuing, supportive care through Al-Anon or other sources. DT (Initials)

19. **Statutory Compliance.** I agree to obey all federal, state and local laws and all rules governing the practice of medicine in the State of Mississippi. DT (Initials)

20. **Notification of Change in Status.** I agree to notify the MPHP/MSBML of any change in my physical or mental health, my residence or place of employment. DT (Initials)

I agree that MPHP hereby has my authorization to notify the appropriate State Licensure Board and/or Professionals Health Program of my residence and/or practice in that state. DT (Initials)

I further agree to notify the MSBML and MPHP in writing, within ten (10) days prior to departing this state to practice in another state. Unless, I affiliate with a recovery program recognized by the MSBML and MPHP, periods of residency or practice outside Mississippi may not apply to the reduction of time periods specified in this monitoring Contract Agreement. DT (Initials)

21. **Payment of Costs.** I agree to pay annual MPHP dues and fees when billed. DT (Initials)

22. **Financial Responsibility.** I agree to be responsible regarding my financial obligations. I understand MPHC considers financial responsibility, in general, an important element of recovery. Specifically, I accept my financial responsibility to MPHP, my licensure board, laboratory screening services, therapist, psychiatrists, etc. Further, treatment facilities often

extend treatment to program participants on credit in an effort to assist them with their recovery and the opportunity to resume work. MPHP fully expects that any outstanding debt to treatment providers/organizations be satisfied in a responsible and timely manner. DT (Initials)

23. **Subpoena for Records.** Unless directed otherwise by the Program Participant, MPHC resists the release of subpoenaed participant records to the fullest extent of the law. I understand that I am financially liable for all MPHP costs and attorney fees in such matters. DT (Initials)

24. **Breach of Contract and/or Relapse.** I understand that ANY breach of this contract will be grounds for re-evaluation by the MPHP with an immediate report to the MSBML.
DT (Initials)

I understand that if I experience a relapse, this fact shall be immediately reported by the MPHP to the Executive Director of the MSBML. Such report will include, or be followed by MPHP's response to the relapse and its recommendations regarding the relapse. I understand that MPHP's practice related recommendations regarding licensure/DEA issues are non-binding to the MSBML. DT (Initials)

In the event I should relapse or fail to comply with any of the conditions 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 MPHP determines that I am able to return to the practice of medicine. In so doing, the MSBML and MPHP may require me to undergo further evaluation. DT (Initials)

In the event of a relapse or violation of this agreement, any action by the MSBML may be deemed disciplinary action, and all documents relating thereto, including this Agreement, shall thereafter be deemed public record and reportable to the Federation of State Medical Boards, the National Practitioner Data Bank and other entities requiring MSBML reporting.
DT (Initials)

In withdrawal of MPHP's support may, in the MPHC;s discretion, include the express authority of the MPHC and the MPHP to notify any entity or individual before whom there has been (or would have been) support on my behalf, including without limitation the following concerned parties: any employer, my referent, appropriate insurers with whom the MPHP has established agreements or with whom the MPHP has communicated or offered support on my behalf, credentialing entities, and possible, the MSBML (or other relevant licensing boards). This agreement constitutes my irrevocable authorization to the MPHP and the MPHC to make such communications about the withdrawal of support. DT (Initials)

25. **Hold Harmless Agreement.** As an express condition for participation, I hereby release and forever discharge the MPHP, MPHC and the MSBML, their respective agents, representatives, employees, staff members, and all personnel designated by the MPHP, MPHC or MSBML to assist me, and each of them and all of them, past, present and future from any claims, demands, obligations, costs of any kind or nature whatsoever, arising out of any action of commission or omission in connection with my participation in the Mississippi Professionals Health Program.
DT (Initials)

CHECKLIST:

1. Random, observed, urine drug screen as directed by MPHP/MSBML.
2. Monthly calendar of AA and Caduceus Club meetings.
3. Annual fees when billed.
4. Annual Caduceus Club Retreat attendance.
5. Quarterly reports from Therapist and Workplace Monitor.

NOTE: ALTERATIONS OF THIS CONTRACT CANNOT BE MADE WITHOUT PRIOR WRITTEN APPROVAL FROM THE MEDICAL DIRECTOR AND/OR THE MPHC. ___ (Initials)

11/6/2012
Medical Director, MPHP Date

11/13/12
MPHC Chairman Date

11/20/12
Executive Director, MSBML Date

9/15/12
Program Participant Date

SURRENDER OF MEDICAL LICENSE

To: H. Vann Craig, M.D.
Executive Director
Mississippi State Board of Medical Licensure

WHEREAS, I, Daniel Thomas Overbeck, M.D., am the current holder of License Number 10976, issued in April16, 1986, to practice medicine in the State of Mississippi;

WHEREAS, I am currently disabled and cannot practice medicine with reasonable skill and safety. It is my wish to surrender my current license (No.10976) to practice medicine in the State of Mississippi so that I may retire with a clear and unencumbered license;

I understand that this is a voluntary surrender, and as such, is not a reportable disciplinary action. In the event I later decide to practice medicine in the State of Mississippi, I understand it will be necessary for me to make application with the Board. At such time, the Board reserves the right to utilize any and all information now or which it may later obtain as part of the consideration of any application.

EXECUTED this the 30 day of October, 2013.

Daniel Thomas Overbeck MD

Daniel Thomas Overbeck, M.D.

SOS APA Form 001

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

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME		CONTACT PERSON	TELEPHONE NUMBER	
Board of Medical Licensure		Rhonda Freeman	(601) 987-3079	
ADDRESS		CITY	STATE	ZIP
1867 Crane Ridge Drive, Suite 200-B		Jackson	MS	39216
EMAIL	SUBMIT DATE	Name or number of rule(s):		
rhonda@msbml.ms.gov	11/14/13	Part 2625 Chapter 1: The Practice of Acupuncture		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This is a new rule based on HB 1162 adopted in 2013 which amends MS Code 73-71-19 to require the Board to perform background checks on applicants for acupuncture.

Specific legal authority authorizing the promulgation of rule: HB 1162 – 73-71-19

List all rules repealed, amended, or suspended by the proposed rule: N/A

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	**Action proposed:**	**Date Proposed Rule Filed: 09/24/2013**
_____ Renewal of effectiveness	_____ New rule(s)	**Action taken:**
To be in effect in _____ days	_____ Amendment to existing rule(s)	_X_ Adopted with no changes in text
Effective date:	_____ Repeal of existing rule(s)	_____ Adopted with changes
_____ Immediately upon filing	_____ Adoption by reference	_____ Adopted by reference
_____ Other (specify): _____	**Proposed final effective date:**	_____ Withdrawn
	_____ 30 days after filing	_____ Repeal adopted as proposed
	_____ Other (specify): _____	**Effective date:**
		_X_ 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
		FILED NOV 14 2013 MISSISSIPPI SECRETARY OF STATE
Accepted for filing by	Accepted for filing by	Accepted for filing by #20141

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

Part 2625: Chapter 1 The Practice of Acupuncture

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

A. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
B. Satisfy the Board that he or she is a citizen or permanent resident of the United States of America.
C. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
D. Pay the appropriate fee as determined by the Board.
E. Present a certified copy of birth certificate or valid and current passport.
F. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
G. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as an acupuncturist.
H. Provide favorable references from two (2) acupuncturists licensed in the United States with whom the applicant has worked or trained.
I. Provide proof, directly from the institution, of successful completion of an educational program for acupuncturists that are in candidacy status or accredited by ACAOM, NCCAOM or its predecessor or successor agency that is at least three (3) years in duration and includes a supervised clinical internship to ensure that applicants with an education outside the US are recognized because of the NCCAOM review process for foreign applicants.
J. Pass the certification examinations administered by the NCCAOM and have current NCCAOM Diplomate status in Acupuncture or Oriental Medicine that is consistent with one of the following:
    1. If taken before June 1, 2004, pass the Comprehensive Written Exam (CWE), the Clean Needle Technique portion (CNTP), and the Practical Examination of Point Location Skills (PEPLS).
    2. If taken on or after June 1, 2004, and before January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module, Point Location Module and Biomedicine Module.
    3. If taken on or after January 1, 2007, pass the NCCAOM Foundations of Oriental Medicine Module, Acupuncture Module with Point Location Module, and the Biomedicine Module.
K. If applicant is a graduate of an international educational program, provide proof that the applicant is able to communicate in English as demonstrated by one of the following:
    1. Passage of the NCCAOM examination taken in English.
    2. Passage of the TOEFL (Test of English as a Foreign Language) with a score of 560 or higher on the paper based test or with a score of 220 or higher on the computer based test.
    3. Passage of the TSE (Test of Spoken English) with a score of 50 or higher.

4. Passage of the TOEIC (Test of English for International Communication) with a score of 500 or higher.

L. Provide proof of successful completion of a CCAOM-approved clean needle technique course sent directly from the course provider to the Board.

M. Provide proof of current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.

N. Provide proof of malpractice insurance with a minimum of $1 million dollars in coverage.

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

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

BOARD POLICY

3.19 Residents and Fellows

A physician in training (resident or fellow) may not enter into a relationship (collaborate or supervise) with a mid-level provider (APRN or PA) even though they may have an unrestricted license to practice in Mississippi.