

**BOARD MINUTES**  
**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**  
**MARCH 18, 2015**

The regularly scheduled meeting of the Mississippi State Board of Medical Licensure was held on Wednesday, March 18, 2015, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

Virginia M. Crawford, M.D., Hattiesburg, President  
William S. Mayo, D.O., Oxford, Vice President  
Charles D. Miles, M.D., West Point, Secretary  
Claude D. Brunson, M.D., Jackson  
Rickey L. Chance, D.O., Ocean Springs  
John C. Clay, M.D., Meridian  
S. Randall Easterling, M.D., Vicksburg  
C. Kenneth Lippincott, M.D., Tupelo  
J. Ann Rea, M.D., Summit

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  
Maj Gen (Ret) Erik Hearon, Consumer Health Committee

Not present:

Wesley Breland, Hattiesburg, Consumer Health Committee  
Charles Thomas, Yazoo City, Consumer Health Committee

The meeting was called to order at 1:05 p.m. by Dr. Crawford, President. The invocation was given by Dr. Chance and the pledge was led by Maj Gen (Ret) Hearon. Dr. Crawford welcomed Melissa Magee, Court Reporter, and extended a welcome to all visitors present at the meeting. Dr. Craig introduced Anna Morris and advised that she was a law intern working with the Board.

Dr. Crawford opened the floor for public comments. Neely Carlton, with Butler Snow Law Firm, was present and introduced Dr. Tim Howard who is a consultant with Teledoc.

## **BOARD MINUTES**

**March 18, 2015**

**Page 2**

### **APPROVAL OF CERTIFICATION OF MISSISSIPPI LICENSES TO OTHER ENTITIES FOR THE PERIOD JANUARY 01, 2015, THROUGH FEBRUARY 28, 2015**

Two hundred seventy (270) licenses were certified to other entities for the period January 01, 2015, through February 28, 2015. Motion was made by Dr. Mayo, seconded by Dr. Easterling, and carried unanimously to approve these certifications.

### **APPROVAL OF LICENSES ISSUED FOR THE PERIOD JANUARY 01, 2015, THROUGH FEBRUARY 28, 2015**

Ninety-two (92) licenses were issued for the period January 01, 2015, through February 28, 2015. Motion was made by Dr. Easterling, seconded by Dr. Mayo, and carried unanimously to approve these licenses.

### **REVIEW OF MINUTES OF THE EXECUTIVE COMMITTEE MEETING DATED JANUARY 14, 2015, AND MINUTES OF THE BOARD MEETING DATED JANUARY 15, 2015**

Minutes of the Executive Committee Meeting dated January 14, 2015, and Minutes of the Board Meeting dated January 15, 2015, were reviewed. Dr. Mayo moved for approval of the minutes as submitted. Dr. Miles seconded the motion and it carried unanimously.

### **REPORT OF MARCH 18, 2015, EXECUTIVE COMMITTEE MEETING**

Dr. Craig briefly discussed issues/appearances that were discussed by the Executive Committee earlier today. Information pertaining to the Executive Committee's decisions/recommendations is included in the Executive Committee Minutes dated March 18, 2015.

After discussion, Dr. Easterling requested that the matter concerning Dr. Rex Williams, Dr. Jimenez-Agosto, and Dr. Zeidmann be extracted before a motion was taken on approval and discussed separately. Motion was made by Dr. Mayo, seconded by Dr. Chance and carried of the Board's decision to ratify the actions/decisions of the Executive Committee with the three (3) above mentioned cases to be discussed further.

Motion was made by Dr. Easterling, seconded by Dr. Miles, and carried that the Board enter into Executive Session to discuss the above three (3) mentioned cases that could result in appealable orders before the Board.

Upon a motion by Dr. Mayo, seconded by Dr. Crawford and carried the Board came out of Executive Session at which time Dr. Crawford asked Dr. Miles to report on

## **BOARD MINUTES**

**March 18, 2015**

**Page 3**

the Board's decisions. Dr. Miles stated that in the matter concerning Dr. Williams that no patients are to be seen in the Vicksburg clinic until the application for a free standing clinic is approved. Also, he is to continue with the application for both the pain practice registration certificate and the free standing clinic approval.

In the matter of Dr. Jimenez-Agosto the Board wants him to send documentation and information on the procedures done by the APRN in his office. Also, he is to cease the collaborative relationship only in the extent of dealing with the invasive procedure involving the eye and adenexa.

In the matter of Dr. Zeidmann the Board approves the request of the free standing clinic application.

### **REPORTS FROM COMMITTEES**

**Scope of Practice** - Dr. Easterling (Chair), Dr. Chance, Dr. Miles, Dr. Rea, Mr. Thomas

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

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

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

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

Dr. Mayo reminded the Board that there were rules and regulations that were to be final adopted tomorrow and to please review them if you have not done so.

**Telemedicine / Interstate Licensure Compact** - Dr. Brunson (Chair), Dr. Crawford, Dr. Craig, Ms. Freeman, Maj Gen (Retired) Hearon

Dr. Brunson advised that the committee met earlier today and reviewed the telemedicine regulation. Dr. Brunson said the committee will move forward tomorrow and propose the regulation be filed.

**Licensees Education and Communication** - Dr. Easterling (Chair), Dr. Chance, Dr. Crawford, Dr. Rea, Ms. Freeman

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

## **BOARD MINUTES**

**March 18, 2015**

**Page 4**

### **APPOINT NOMINATING COMMITTEE**

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

### **PERSONAL APPEARANCE BY PATRICK WELDON, M.D., JACKSON, MISSISSIPPI MEDICAL LICENSE NUMBER 18780, REQUEST RESTRICTIONS BE LIFTED**

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Weldon and advised that he was here today without legal counsel to request that all restrictions be removed from his Mississippi medical license. Mr. Ingram advised Dr. Weldon that Ellen O'Neal, Assistant Attorney General, would like to question him regarding legal representation. Following questions from Ms. O'Neal, Dr. Weldon stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram briefly summarized the Consent Order that Dr. Weldon is currently under and advised that he has met all of the Board's requirements. Dr. Weldon addressed the Board and stated that he had complied with all the requirements of the January 2013 Consent Order and that he was here today to request that the Board remove all restrictions currently on his medical license.

Following questions from Board members, motion was made by Dr. Mayo, seconded by Dr. Easterling and carried unanimously to remove all restrictions currently on Dr. Weldon's 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.

### **PERSONAL APPEARANCE BY STEPHEN A. COACHYS, M.D., RIDGELAND, MISSISSIPPI MEDICAL LICENSE NUMBER 17784, REQUEST RESTRICTIONS BE LIFTED**

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Coachys and advised that he was here today without legal counsel to request that all restrictions be removed from his Mississippi medical license. Mr. Ingram advised Dr. Coachys that Ellen O'Neal, Assistant Attorney General, would like to question him regarding legal representation. Following questions from Ms. O'Neal, Dr. Coachys stated that he wanted to waive his right to an attorney and proceed without legal counsel.

## **BOARD MINUTES**

**March 18, 2015**

**Page 5**

Mr. Ingram briefly summarized the Consent Order that Dr. Coachys is currently under and advised that he has met all of the Board's requirements. Dr. Coachys addressed the Board and stated that since he has complied with the Board's requirements that he was here today to request that the restrictions be removed.

Following questions from Board members, motion was made by Dr. Miles, seconded by Dr. Brunson and carried unanimously to remove all restrictions currently on Dr. Coachys' 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.

### **PERSONAL APPEARANCE BY MATHEW C. WALLACK, M.D., BILOXI, MISSISSIPPI MEDICAL LICENSE NUMBER 18379, REQUEST REINSTATEMENT**

Mr. Ingram introduced Dr. Wallack and his attorney Julie Mitchell and stated that they were here today to request reinstatement of Dr. Wallack's medical license.

Mr. Ingram provided a brief background of Dr. Wallack's history with the Board and recapped the July 18, 2013, hearing before placing exhibits into the record. Ms. Mitchell addressed the Board and made the request for Dr. Wallack's license to be reinstated unrestricted due to the fact that he has complied with the Board's recommendations. Also, Ms. Mitchell advised that Dr. Scott Hambleton, Medical Director, Mississippi Professionals Health Program (MPHP), was here today to advocate for Dr. Wallack. Ms. Mitchell then entered several exhibits into the record.

Dr. Wallack was called to the witness stand and was sworn in by the court reporter. Dr. Wallack advised that he wants to move and work in North Carolina and wants to practice neurology. Dr. Wallack advised he would be participating in a re-entry program with direct supervision for three (3) months, and advised that he does not want to be involved with pain management.

Dr. Hambleton was called to the witness stand and sworn in by the court reporter. Dr. Hambleton advised that Dr. Wallack has complied with all of the Board's requirements and that he was here today providing advocacy. Dr. Hambleton advised if Dr. Wallack moves to North Carolina that the North Carolina Physicians Health Program will continue monitoring and meeting with him on a regular basis.

Following several questions from Board members, motion was made by Dr. Brunson, seconded by Dr. Chance and carried unanimously to reinstate Dr. Wallack's medical license. Dr. Wallack's medical license is unrestricted to practice medicine in

**BOARD MINUTES**

**March 18, 2015**

**Page 6**

the state of Mississippi with the understanding that he maintains advocacy with MPHP. A copy of the Order of Reinstatement is attached hereto and incorporated by reference.

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

**THE BOARD RECESSED AT 2:40 P.M. AND RETURNED AT 2:50 P.M.**

**HEARING IN THE CASE OF SHUNDA L. GARNER, M.D., JACKSON, MISSISSIPPI  
MEDICAL LICENSE NUMBER 16790, SUMMONS AND AFFIDAVIT**

Mr. Ingram introduced Dr. Garner and her attorney Andy Taggert. Mr. Ingram briefly discussed the reason they were here today and discussed the Summons and Affidavit before entering exhibits into the record.

Mr. Taggert entered exhibits into the record. Prior to beginning the hearing, Mr. Taggert made two (2) separate motions to dismiss. One motion was based on the fact that the affidavit was filed by the Board's investigator and not supported by a medical expert.

Mr. Ingram had filed a written response to the motion and covered why the Board members are not dependent on expert testimony to determine standard of care. Mr. Ingram provided the Board with the reasons why they should deny the request to dismiss.

Mr. Taggert filed a second motion to dismiss the hearing based on the allegation by Dr. Garner that in obtaining medical records for one of the patients that the board investigator failed to comply with the requirements of 73-25-28. Again, the Board heard arguments from both attorneys.

Motion was made by Dr. Mayo, seconded by Dr. Easterling, and carried that the Board enter into Executive Session to discuss action which could adversely affect Dr. Garner's license.

Upon a motion by Dr. Mayo, seconded by Dr. Easterling, and carried the Board came out of Executive Session at which time Dr. Crawford asked Dr. Miles to report on the Board's decision. Dr. Miles advised that the Board denies the motions to dismiss the hearing.

**DR. BRUNSON EXITED THE MEETING AT 3:20 P.M.**

Mr. Ingram called Dr. Garner as an adverse witness to the witness stand and

## **BOARD MINUTES**

**March 18, 2015**

**Page 7**

she was sworn in by the court reporter. Mr. Ingram asked Dr. Garner numerous questions before the Board questioned Dr. Garner.

Mr. Taggert then addressed Dr. Garner and questioned her concerning the counts in the affidavit.

### **THE BOARD RECESSED AT 4:50 P.M. AND RETURNED AT 5:00 P.M.**

After the break, Mr. Taggert continued his questioning of Dr. Garner. Mr. Taggert explained that one of the exhibits was a video of a presentation made by board member, Randy Easterling, M.D., and informed the board of his intention to show the video. Mr. Ingram objected to showing the video because he does not see any relevance. Ms. O'Neal questioned the relevance of the video and following Mr. Taggert's response, motion was made by Dr. Mayo, seconded by Dr. Rea and carried that the Board enter into Executive Session to make a decision on viewing the video and requested that Dr. Easterling be excluded from the Executive Session.

Following a motion by Dr. Mayo, seconded by Dr. Miles, the Board came out of Executive Session at which time Dr. Crawford asked Dr. Miles to report on the Board's decision. Dr. Miles advised that the Board will allow the 30 second video to be presented.

Mr. Taggert requested that Count IV be stricken and Mr. Ingram said to make note that Investigator Ware was not provided all information on the quantity of the controlled substances prescribed. The Board agreed to strike Count IV.

Mr. Ingram asked follow-up questions of Dr. Garner as well as additional questions were asked by Board members.

### **THE BOARD RECESSED AT 6:25 P.M. AND RETURNED AT 6:30 P.M.**

Mr. Ingram called Susan McCoy to the witness stand and she was sworn in by the court reporter. Ms. McCoy discussed her position with the Pharmacy Board before Mr. Ingram questioned her.

Mr. Taggert had no questions for Ms. McCoy at first but did after she was questioned by several Board members.

Mr. Ingram called Investigator Charles Ware to the witness stand and he was sworn in by the court reporter. Mr. Ingram questioned Mr. Ware before he was questioned by Mr. Taggert and the Board members concerning the affidavit and his investigation.

**THE BOARD RECESSED FOR DINNER AT 7:40 P.M. AND RETURNED AT 8:10 P.M.**

After returning, Mr. Taggert again reiterated his motion to dismiss which was again denied by the Board President.

Mr. Taggert called Dr. Craig, the Board's Executive Director, to the witness stand and he was sworn in by the court reporter. Mr. Taggert was first to question Dr. Craig and then he responded to questions from several Board members.

Following all the questions, motion was made by Dr. Rea, seconded by Dr. Mayo and carried that the Board enter into Executive Session to discuss a matter that could result in an appealable order.

Upon a motion by Dr. Crawford, seconded by Dr. Mayo and carried the Board came out of Executive Session at which time Dr. Crawford asked Dr. Miles to report on the Board's decision. Dr. Miles advised that in the matter of Dr. Garner that the Board found her guilty of Counts I, III, V, VI and not guilty of Counts II and VII, and advised that the Board had dismissed Count IV prior to the hearing. Ms. O'Neal assisted Dr. Miles and advised that within twelve (12) months of the Order that Dr. Garner is to enroll and successfully complete four (4) Continuing Medical Education (CME) courses in the areas of (1) Prescribing of Controlled Substances, (2) Proper Record Keeping, (3) Medical Ethics, and (4) Collaborating Relationships. All CME courses are in addition to the Board's 40 hour requirement and are to be approved in advance in writing by the Executive Director. Also, Dr. Garner is prohibited from collaborating with mid-level providers until all above courses are complete and she receives written approval from the Board. The Board ordered that Dr. Garner shall reimburse the Board of all costs incurred in relation to the matter not to exceed \$10,000. A copy of the Order Denying Motions to Dismiss and Determination and Order is attached hereto and incorporated by reference.

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

**ADJOURNMENT**

Following no further questions, the Board recessed at 9:30 P.M. on Wednesday, March 18, 2015, scheduled to reconvene at 9:00 A.M. on Thursday, March 19, 2015.



**BOARD MINUTES**  
**March 18, 2015**  
**Page 9**

  
**Virginia M. Crawford, M.D.**  
**President**

Minutes taken and transcribed  
by Sherry H. Pilgrim  
Staff Officer  
March 18, 2015

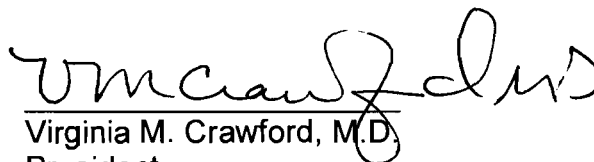
**EXECUTIVE SESSION  
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
MARCH 18, 2015**

AGENDA ITEM: Three (3) issues from Executive Committee discussed:

In a motion made by Dr. Mayo, seconded by Dr. Easterling , and carried the Board entered Executive Session to discuss three cases from the Executive Committee. 1) Dr. Rex Williams - no patients should be seen until application is approved and he should continue with application for both the pain practice and the free standing clinic; 2) Dr. Jimenez-Agosto is to send the Board documentation and information on procedure the APRN in his office performs. Cease the collaborative relationship only in the extent of dealing with the invasive procedures involving the eye and adnexa. 3) Dr. Zeidmann - approval of the free standing clinic application.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
John C. Clay, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, D.O.	X			
Charles D. Miles, M.D..	X			
J. Ann Rea, M.D.	X			

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

  
Virginia M. Crawford, 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.**

**ORDER**

**THIS MATTER** came on regularly for hearing on March 18, 2015, before the Mississippi State Board of Medical Licensure, in response to the petition of Patrick Ernest Weldon, M.D. (hereinafter "Licensee"), seeking removal of all restrictions on his license to practice medicine in the State of Mississippi. By virtue of that certain Consent Order dated January 24, 2013, Licensee's certificate to practice medicine in the State of Mississippi was restricted until such time as Licensee reimburse the Board for all costs incurred in this matter and complete certain continuing medical education. In support of Licensee's request for removal of restrictions, the Board has been submitted proof that Licensee has complied with all terms of the aforementioned Consent Order. Therefore, the Board, after hearing said request, finds the same to be well-taken.

**IT IS HEREBY ORDERED**, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

**IT IS HEREBY ORDERED**, that pursuant to Miss. Code Ann. Section 73-25-27 (1972), a copy of this Order shall be sent by registered mail or personally served upon, Patrick Ernest Weldon, M.D.

**ORDERED**, this the 18<sup>th</sup> of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY: \_\_\_\_\_

  
**VIRGINIA M. CRAWFORD, M.D.  
PRESIDENT**

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**STEPHEN ALLEN COACHYS, M.D.**

**ORDER**

**THIS MATTER** came on regularly for hearing on March 18, 2015, before the Mississippi State Board of Medical Licensure, in response to the petition of Stephen Allen Coachys, M.D. (hereinafter "Licensee"), seeking removal of all restrictions on his license to practice medicine in the State of Mississippi. By virtue of that certain Consent Order dated March 20, 2014, Licensee's certificate to practice medicine in the State of Mississippi was prohibited from prescribing, administering or dispensing any controlled substances in Schedules II, IIN, III, and IIIN. After expiration of one (1) year Licensee had the right to petition the Board for reinstatement of prescriptive authority, provided Licensee reimburse the Board for all costs incurred in the matter and complete certain continuing medical education. In support of Licensee's request for removal of restrictions, the Board has been submitted proof that Licensee has complied with all terms of the aforementioned Consent Order. Therefore, the Board, after hearing said request, finds the same to be well-taken.

**IT IS HEREBY ORDERED**, that Licensee's request for removal of all restrictions is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi.

**IT IS HEREBY ORDERED**, that pursuant to Miss. Code Ann. Section 73-25-27 (1972), a copy of this Order shall be sent by registered mail or personally served upon, Stephen Allen Coachys, M.D.

**ORDERED**, this the 18<sup>th</sup> of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY: 

**VIRGINIA M. CRAWFORD, 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 RE-INSTATEMENT**

**THIS MATTER** came on regularly for hearing on March 18, 2015, before the Mississippi State Board of Medical Licensure, in response to the petition of Mathew Cary Wallack, M.D. (hereinafter "Licensee"), seeking re-instatement of his license to practice medicine in the State of Mississippi. By virtue of that certain Order dated July 18, 2013, Licensee's certificate to practice medicine in the State of Mississippi was prohibited from practicing medicine until such time as Licensee received appropriate treatment, obtained affiliation with the Mississippi Professionals Health Program (hereinafter "MPHP"), and reimburse the Board for all costs incurred in the matter. In support of Licensee's request for removal of restrictions, the Board has been submitted proof that Licensee has complied with all terms of the aforementioned Order, including confirmation of advocacy and affiliation from the MPHP.

**THEREFORE**, the Board, after hearing said request, finds the same to be well-taken. The evidence and testimony presented establishes that Licensee has completed all treatment, has secured advocacy from the MPHP, and can now return to the practice of medicine with reasonable skill and safety to patients.

**IT IS HEREBY ORDERED**, that Licensee's request for reinstatement is hereby granted. Licensee now holds an unrestricted license to practice medicine in the State of Mississippi with the understanding that Licensee maintains advocacy with MPHP.

IT IS HEREBY ORDERED, that pursuant to Miss. Code Ann. Section 73-25-27 (1972), a copy of this Order shall be sent by registered mail or personally served upon, Mathew Cary Wallack, M.D.

ORDERED, this the 18<sup>th</sup> day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY:   
\_\_\_\_\_  
**VIRGINIA M. CRAWFORD, M.D.  
PRESIDENT**

**EXECUTIVE SESSION  
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
MARCH 18, 2015**

AGENDA ITEM: Hearing in the case of Shunda L. Garner, M.D.

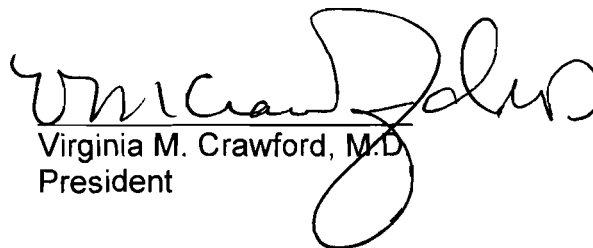
In a motion made by Crawford, seconded by Mayo, and carried the Board denied the motion to dismiss on both issues. The Board found Dr. Garner:

Count # 1 - Guilty	Count # 5 - Guilty
Count # 2 - Not Guilty	Count # 6 - Guilty
Count # 3 - Guilty	Count # 7 - Not Guilty
Count #4 - Guilty	

SEE ATTACHED BREAKDOWN.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Claude D. Brunson, M.D.				X
Rickey L. Chance, D.O.	X			
John C. Clay, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, D.O.	X			
Charles D. Miles, M.D..	X			
J. Ann Rea, M.D.	X			

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

  
Virginia M. Crawford, M.D.  
President

## BOARD FINDINGS IN THE CASE OF SHUNDA GARNER, MD

### COUNT I

Based upon clear and convincing evidence that Dr. Garner did not produce to the Board evidence of the appropriate number of CMEs as set out in Count I, we find her guilty of Count I.

### COUNT II

The Board finds the evidence was not clear and convincing that Dr. Garner knew at the time that her CME documentation was false, we find her not guilty of Count II.

### COUNT III

Based upon clear and convincing evidence that Dr. Garner allowed NPs and other physicians to dispense medication under her license, and because NPs are not allowed to dispense legend drugs, we find Dr. Garner guilty of Count III.

### COUNT IV

Dismissed prior to hearing.

### COUNT V

Based upon clear and convincing evidence that Dr. Garner did not perform an adequate physician exam; that there was no documentation of a proper ADHD diagnosis; that there was no criteria or diagnostic testing for ADHD; that despite her testimony that she did perform a physician exam, she failed to discover that the patient was in the 2<sup>nd</sup> or 3<sup>rd</sup> trimester of pregnancy, and continued to prescribe Adderall, a controlled substance, during pregnancy. The Board finds her guilty of Count V.

### COUNT VI

Based on evidence outlined above, the Board finds Dr. Garner administered drugs with addiction sustaining liabilities and thus is guilty of Count VI.

### COUNT VII

The Board finds Dr. Garner not guilty of unprofessional conduct in Count VII.

Based upon the foregoing findings of fact and conclusions of law, the Board orders Dr. Garner as follows:

- 1) To take four (4) board approved CME courses on prescribing, ethics, record keeping



and collaborative relationships (such as the Alabama course on collaboration.)

2) That these courses be in addition to the required 40 hours of CME, and that they be completed within the next year.

3) That Dr. Garner report back to the Board within one (1) year and show evidence of completion of said courses.

4) That Dr. Garner pay all investigative fees up to the statutory limit.

5) That Dr. Garner's license to practice in Mississippi will remain active so long as she continues to comply with these conditions; however, as a restriction on your license, you will be prohibited from collaborating with a mid-level provider until the Board is satisfied that the previous requirements are met.

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**SHUNDA LYNETTE GARNER, M.D.**

**ORDER DENYING MOTIONS TO DISMISS  
DETERMINATION AND ORDER**

THIS MATTER came on regularly for hearing on March 18, 2015, 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 8, 2014, by issuance of a Summons and Affidavit against Shunda Lynette Garner, M.D., (hereinafter "Licensee") setting forth a total of seven (7) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83. This matter was initially set for hearing on January 15, 2015, but upon request of Licensee, was continued to this date.

Licensee was present, represented by Honorable Andrew Taggart. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Special Assistant Attorney General. Board members present for the proceedings were Virginia Crawford, M.D.; President, William S. Mayo, D.O.; Claude D. Brunson, M.D.; S. Randall Easterling, M.D.; Rickey L. Chance, D.O.; Charles D. Miles, M.D.; Ken Lippincott, M.D.; Ann Rea, M.D.; and John Clay, M.D. After initiation of the hearing, Claude D. Brunson, M.D., had to leave and thereafter did not participate in the deliberation or vote.

**ORDER DENYING MOTIONS TO DISMISS**

Prior to initiation of the hearing, Licensee presented two (2) separate motions to

dismiss. The first motion was based on the fact that the affidavit as filed herein by Charles Ware and was not supported by a medical expert. This motion is hereby denied. Both during the investigation and preparation of the affidavit by Ware, the Board's Executive Director, H. Vann Craig, M.D., who is a licensed physician, provided guidance and approved the same. Furthermore, the members of the Board are not deemed lay factfinders, and thus are not dependent on expert testimony to determine standard of care. Within the context of disciplinary proceedings conducted by professional licensing boards, where, as here, the fact finding body is composed entirely or predominantly of experts charged with the regulation of the profession. It is not necessary that a medical doctor execute the charging document or testify as to the standard of care. Furthermore, the Board has adopted comprehensive rules and regulations which provide guidance to all licensees.

The second motion to dismiss was based on the allegation by Licensee that when obtaining the medical record for Patient No. 1 from the CareHere Clinic at 6311 Ridgewood Road, Jackson, Mississippi, the investigative staff of the Board failed to comply with the requirements of Miss. Code Ann. Section 73-25-28. This motion is hereby denied. After hearing arguments on the matter from both counsels, the Board finds that the medical record was secured pursuant to authority under Section 41-29-157(b)(4)(A) of the Mississippi Uniform Controlled Substances Law and the Rules and Regulations duly promulgated by the Board, including 30 Miss. Admin. Code Pt 2640, Rule 1.4.

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. 16790. Said license is current until June 30, 2015. A records check with the U.S. Drug Enforcement Administration (DEA) indicated that Licensee's Uniform Controlled Substance Registration Certificate No. BG6444880 was issued on September 2, 2014, with an expiration date of September 30, 2017, and includes prescriptive authority in schedules II, IIN, III, IIIN, IV, and V.

2. During 2010 through 2012, Licensee's primary medical practice location as reported to the Board was the North Street Family Medical Clinic, located at 953 North Street, Jackson, Mississippi. In addition, Licensee practiced part time at a clinic operated by CareHere Clinic, a Tennessee-based company, located in the Mississippi Farm Bureau Company building on 6311 Ridgewood Road, Jackson, Mississippi,

3. During June, 2013, at the direction of the Board's Executive Director, Board Investigator Charles Ware, hereinafter "Ware," conducted an investigation of Licensee concerning the suspicious prescribing of controlled substance stimulant medication for Attention Deficit Hyperactivity Disorder (ADHD). Ware conducted inspections of Licensee's primary practice location as well as the CareHere Clinic. Licensee told Ware any amphetamine prescriptions would involve patients treated at the CareHere Clinic. She further stated that any such patients' records were not hers, but rather the records of CareHere. Licensee told Ware she did not prescribe amphetamines to patients presenting to her primary practice location as she did "not feel comfortable in diagnosis of Attention Deficit."

4. An inquiry by Ware also determined that substantial quantities of various legend medications, repackaged into quantities likely for dispensation to patients, were

being ordered under authority of Licensee's name and delivered to the CareHere Clinic location at 6311 Ridgewood Road as well as two additional CareHere addresses. The inspection of the 6311 Ridgewood Road clinic location was conducted on June 26, 2013, with the assistance of a Board of Pharmacy Compliance Agent. During the inspection, Licensee was presented a written request for medical records for (11) patients receiving amphetamine prescription orders issued by Licensee. Pursuant to request, the records were provided without objection from corporate representatives of CareHere, LLC, who were present at the time. Also inspected were dispensation records (log book) and stock of medications then found.

5. In addition to the patient and medication records, Licensee was asked to provide copies of CME credits/hours obtained for the prior two year reporting cycle (July 1, 2010 to June 30, 2012), and any obtained for the then current, partial (first year of the two years) reporting cycle. For the two year reporting cycle July 1, 2010 to June 30, 2012, Licensee produced a self-manufactured statement, unsigned, which stated: "I, (Licensee), have claimed 20 hours of continuing medical education for the supervision of Caryl Sumrall, nurse practitioner in the 2010-2011 and (sic) 2011-2012 cycle as well as the 2012-2013 cycle." Said statement was not supported by any certificate of completion or evidence that Licensee even applied to secure such credit from any AMA recognized entity authorized to conduct CME and grant such credit.

6. On June 19, 2012, Licensee submitted a digital renewal of her medical license application via the Board's website, wherein Licensee answered Yes to Question 9, "During the period of July 1, 2010 - June 30, 2012, did you acquire 40 hours of CME?" At the time of such renewal, Licensee mistakenly believed she had secured adequate CME

through the American Academy of Family Physicians.

7. Licensee acknowledged that she was not the only person at the CareHere Clinic location at 6311 Ridgewood Road, Jackson, Mississippi, to dispense medication which was acquired in her name. Those individuals who also dispensed legend drugs from the same inventory included a nurse practitioner or another physician. In this regard, the Board notes that the rules and regulations of the Mississippi State Board of Nursing does not permit nurse practitioners to dispense medication.

8. During the prescription profile period September 22, 2010, through October 17, 2012, Licensee issued to Patient No. 1 eighteen (18) prescriptions, including refills, totaling approximately 960 dosage units of controlled substances, or other drugs having addiction-forming or addiction-sustaining liability, to wit: fourteen (14) prescriptions for approximately 840 Adderall (Dextroamphetamine/Amphetamine Salts) 20mg tablets; and four (4) prescriptions for approximately 120 Ambien (Zolpidem Tartrate) 10mg tablets.

A summary of said prescriptions is as follows:

Written date	Fill date	Drug Name/ Strength	Qty.	Rx Number	Sig:
09/22/2010	09/22/2010	Adderall 20mg	60	727954	1 po bid
10/20/2010	10/20/2010	Adderall 20mg	60	732143	1 po bid
11/17/2010	11/17/2010	Adderall 20mg	60	736412	1 po bid
04/13/2011	04/13/2011	Adderall 20mg	60	757943	1 po bid
05/11/2011	05/11/2011	Adderall 20mg	60	761930	1 po bid

05/11/2011	05/11/2011	Ambien 10mg	30	961931	1 po qhs
08/24/2011	08/24/2011	Adderall 20mg	60	2635947	1 po bid
09/21/2011	09/21/2011	Adderall 20mg	60	779878	1 po bid
10/19/2011	10/19/2011	Adderall 20mg	60	784264	1 po bid
11/16/2011	11/16/2011	Adderall 20mg	60	788538	1 po bid
12/21/2011	12/21/2011	Adderall 20mg	60	2638071	1 po bid
01/11/2012	01/11/2012	Adderall 20mg	60	796415	1 po bid
01/11/2012	01/11/2012	Ambien 10mg	30	4471672	
04/04/2012	04/04/2012	Adderall 20mg	60	808063	1 po bid
04/04/2012	04/04/2012	Ambien 10mg	30	808064	1 po qhs
08/23/2012	08/23/2012	Adderall 20mg	60	2217554	
08/23/2012	08/23/2012	Ambien 10mg	30	4477726	
10/17/2012	10/17/2012	Adderall 20mg	60	833354	1 po bid

9. The above and other prescriptions were issued by Licensee to Patient No. 1, over a period of two and one-half years without any entry into the record establishing a confirmed diagnosis of ADHD as a result of either a comprehensive examination conducted by Licensee or review of a consult report from another physician establishing the diagnosis. Further, prescriptions were issued despite the patient's failure to comply with repeated requests of Licensee and other CareHere practitioners to submit lab work

and health assessments. During the above profile period, Licensee failed to either conduct a comprehensive physical examination or enter the results of that which she did. No entries were found in the records addressing the fact that the patient was pregnant yet still receiving repeated prescriptions for controlled substances. Finally, most of the prescriptions noted in the affidavit were issued despite the patient returning 2-3 days early and in one instance 9 days early.

### **CONCLUSIONS OF LAW**

Based upon the foregoing, Licensee is guilty of Count One (1) of the December 8, 2014, Affidavit of Charles Ware, by virtue of Licensee's failure to comply with Title 30, Part 2610, Chapter 2, Rules 2.1 and 2.5 pertaining to continuing medical education as a result of Licensee's failure to earn or receive not less than forty (40) hours of Category 1 continuing medical education in the two year cycle of July 1, 2010 - June 30, 2012, all in violation of Miss. Code Ann., § 73-25-29(13).

Based upon the foregoing, Licensee is not guilty of Count Two (2) of the December 8, 2014, Affidavit of Charles Ware, inasmuch as there was no clear and convincing evidence that Licensee knew at the time she submitted her licensure renewal application that her CME documentation was not in compliance with Board Rules and Regulations.

Based upon the foregoing, Licensee is guilty of Count Three (3) of the December 8, 2014, Affidavit of Charles Ware, by virtue of Licensee violating Title 30, Part 2640, Chapter 1, Rule 1.9 "Pertaining to Prescribing, Administering and Dispensing of Medication," as a result of Licensee's failure to personally dispense, or to restrict other persons within the clinic from dispensing, medications acquired under authority of the Licensee's medical license, all in violation of Miss. Code Ann., § 73-25-29(13).



No action is taken as to Count Four (4) as said count was dismissed prior to or during the hearing.

Based upon the foregoing, Licensee is guilty of Count Five (5) of the December 8, 2014, Affidavit of Charles Ware by virtue of Licensee failing to comply with Title 30, Part 2640, Chapter 1, Rule 1.4, "Pertaining to Prescribing, Administering and Dispensing of Medication," as a result of Licensee's prescribing a controlled substance without a good faith prior examination and medical record indication therefore, all in violation of Miss. Code Ann., § 73-25-29(13).

Licensee is guilty of Count Six (6) of the December 8, 2014, Affidavit of Charles Ware by virtue of Licensee administering, dispensing, or prescribing of narcotic drugs, or other drugs having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, all in violation of Miss. Code Ann., § 73-25-29(3).

Licensee is found not guilty of Count Seven (7) of the December 8, 2014 Affidavit of Charles Ware.

### **ORDER**

**IT IS THEREFORE, ORDERED** that based upon the Findings of Fact and Conclusions of Law enumerated above, that Mississippi Medical License No. 16790, duly issued to Shunda Lynette Garner, M.D., shall hereinafter be subject to the following restrictions:

1. Within twelve (12) months from entry of this order, Licensee shall enroll and successfully complete four (4) Continuing Medical Education (CME) courses in the areas of

(1) Prescribing of Controlled Substances; (2) Proper Record Keeping; (3) Medical Ethics and (4) Collaborating Relationships . All CME courses shall be approved in advance and in writing by the Executive Director of the Board. Following completion of each course, Licensee shall submit to the Board documentary proof of successful completion. This is in addition to the forty (40) hours of Category 1 CME requirements as cited in Title 30, Part 2610, Chapter 2 of the Board's Rules and Regulations.

2. Licensee shall be prohibited from collaborating with mid-level providers until such time as she has completed all of the above enumerated CME and shall have received written approval from the Board.

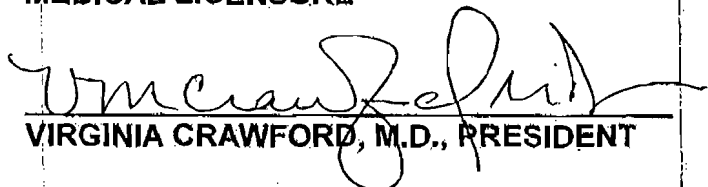
**IT IS FURTHER ORDERED**, that Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann. § 73-25-30, with said amount not to exceed \$10,000. Licensee shall be advised of the total assessment by separate notification, and shall tender to 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 to her primary practice location as currently shown in her last licensure renewal.

**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 Shunda Lynette Garner, M.D., or her counsel, Andrew Taggart.

**SO ORDERED**, this the 18th day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY:

  
VIRGINIA CRAWFORD, M.D., PRESIDENT

Day 2  
Board  
Meeting

March 19, 2015

**BOARD MINUTES**  
**MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**  
**MARCH 19, 2015**

The Board meeting of the Mississippi State Board of Medical Licensure reconvened on Thursday, March 19, 2015, in the Board Room of the Office of the Board located at 1867 Crane Ridge Drive, Jackson, Mississippi.

The following members were present:

Virginia M. Crawford, M.D., Hattiesburg, President  
William S. Mayo, D.O., Oxford, Vice President  
Charles D. Miles, M.D., West Point, Secretary  
Claude D. Brunson, M.D., Jackson  
Rickey L. Chance, D.O., Ocean Springs  
John C. Clay, M.D., Meridian  
S. Randall Easterling, M.D., Vicksburg  
C. Kenneth Lippincott, M.D., Tupelo  
J. Ann Rea, M.D., Summit

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  
Charles Thomas, Yazoo City, Consumer Health Committee  
Maj Gen (Ret) Erik Hearon, Consumer Health Committee

The meeting was called to order at 9:00 a.m. by Dr. Crawford, President. Dr. Crawford welcomed Amy Key, Court Reporter, and advised that the Board was reconvening from yesterday's meeting.

Dr. Crawford introduced Jennifer Gholson, M.D., President of the Mississippi Academy of Family Physicians, and advised that she had requested to address the Board. Dr. Gholson thanked the Board for allowing her the opportunity to address them and discussed telemedicine. Dr. Gholson made a couple recommendations and stated that she hopes the Board and the Mississippi Academy of Family Physicians can work together and look at different applications before taking final action. Dr. Crawford thanked Dr. Gholson for appearing today.

**BOARD MINUTES**

**MARCH 19, 2015**

**Page 2**

**PERSONAL APPEARANCE BY J. MICHAEL HENDERSON, M.D., HUNTINGTON VALLEY, OH, APPLICANT AT UMC**

Mr. Ingram introduced Dr. Henderson to the Board members. Dr. Craig explained that Dr. Henderson is an applicant requesting licensure and advised that he plans to work at UMC. Dr. Craig briefly covered Dr. Henderson's application and how he currently does not meet the Board's requirements.

Dr. Brunson discussed Dr. Henderson's CV, his application, and the fact that he was licensed in Georgia and worked at Emory. Dr. Brunson advised that Dr. Henderson brings advanced qualifications to our state and that UMC does not want to miss out on all he can bring to the medical school. Dr. Brunson requested the Board's assistance by inserting appropriate language in the Board's rules and regulations that would allow for a waiver in certain circumstances.

Dr. Henderson addressed the Board and thanked them for allowing him to appear and discuss his qualifications. Several board members asked Dr. Henderson questions and Dr. Henderson advised that he wants to be the Chief Medical Officer at UMC.

Dr. Crawford had provided the Board with a draft of possible language needed in the Board's rules and regulations and referred the matter to the Board's Rules and Regulation Committee to bring before the Board in May. After further discussion, motion was made by Dr. Easterling, seconded by Dr. Brunson and carried to give the proposed language to the Rules and Regulation Committee and let them meet at lunch and then bring the matter back before the Board later today and move forward from that point.

**HEARING IN THE CASE OF HOSAN MENANY AZOMANI, M.D., MADISON, MISSISSIPPI MEDICAL LICENSE NUMBER 18728, SUMMONS AND AFFIDAVIT / CONTINUANCE REQUESTED**

Mr. Ingram advised that Dr. Azomani nor his attorney were present today but had sent a Motion for Continuance until the May Board meeting.

Motion was made by Dr. Mayo, seconded by Dr. Miles, and carried to grant the Continuance until the May Board meeting. A copy of the Continuance is attached hereto and incorporated by reference.

**HEARING IN THE CASE OF BERNADETTE E. SHERMAN, M.D., NATCHEZ, MISSISSIPPI MEDICAL LICENSE NUMBER 09011, SUMMONS AND AFFIDAVIT / CONTINUANCE REQUESTED**

**BOARD MINUTES**  
**MARCH 19, 2015**  
**Page 3**

Mr. Ingram advised that Dr. Sherman nor her attorney were present today but had sent a Motion for an Extension to File an Answer and a Continuance until the next Board meeting.

Motion was made by Dr. Mayo, seconded by Dr. Clay and carried to grant the Continuance until the May Board meeting. A copy of the Continuance is attached hereto and incorporated by reference.

**HEARING IN THE CASE OF THEODORE EMEKA OKECHUKU, M.D., MANSFIELD, TX., MISSISSIPPI MEDICAL LICENSE NUMBER 20921, SUMMONS AND AFFIDAVIT**

Mr. Ingram introduced Doug Mercier as the attorney for Dr. Okechuku. Mr. Mercier advised that Dr. Okechuku is currently incarcerated in Texas and that he had filed a motion for a Continuance. Mr. Ingram advised the Board that they could grant a continuance until such time as Dr. Okechuku has been released from the custody of law enforcement in the state of Texas and add that Dr. Okechuku is prohibited from practicing medicine in Mississippi until the matter is heard before the Board.

Motion was made by Dr. Mayo, seconded by Dr. Miles and carried to grant the Continuance until such time as Dr. Okechuku has been released from custody in Texas and that he is prohibited from practicing in Mississippi until his case is heard. A copy of the Continuance is attached hereto and incorporated by reference.

**FINAL ADOPT REGULATION CONCERNING TITLE 30, PART 2601, CHAPTER 5, ADMINISTRATIVE MEDICAL LICENSE / COMMENT RECEIVED**

Before any discussion on the regulation, Ms. O'Neal requested that the Board go into Executive Session so she could discuss a matter and protect attorney/client privileges. Motion was made by Dr. Mayo, seconded by Dr. Miles and carried that the Board enter into Executive Session.

Upon the Board's return, Dr. Crawford asked Dr. Miles to report on the Board's decision. Dr. Miles advised that under the administrative medical license that utilization review is the practice of medicine and does require a medical license.

The Board also discussed the comment that was received from UMC before the motion was made by Dr. Mayo, seconded by Dr. Clay and carried of the Board's intent to final adopt the proposed regulation concerning administrative medical license. A copy of the proposed regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

**FINAL ADOPT REGULATION CONCERNING TITLE 30, PART 2650, CHAPTER 2, PUBLIC RECORDS**

Dr. Crawford asked if the Board had received any comments on the proposed regulation. There being none and there was no discussion, motion was made by Dr. Mayo, seconded by Dr. Easterling and carried of the Board's intent to final adopt the proposed regulation concerning public records. A copy of the proposed regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

**HEARING IN THE CASE OF DOROTHY L. GILLESPIE, M.D., HATTIESBURG, MISSISSIPPI MEDICAL LICENSE NUMBER 09056, SUMMONS AND AFFIDAVIT**

Mr. Ingram introduced Dr. Gillespie and her attorney Al Shiyou to the Board and briefly discussed the charges in the affidavit before placing exhibits into the record.

Mr. Shiyou addressed the Board and discussed them trying to get settlement conference. Mr. Ingram advised that they were offered a settlement conference but were unable to appear on any of the proposed dates and that Dr. Craig had advised him to advise Mr. Shiyou that the offer was a surrender of Dr. Gillespie's medical license. Mr. Shiyou stated that Dr. Gillespie was offering to close her office in Hattiesburg and work as a hospitalist but maintain her DEA.

Motion was made by Dr. Rea, seconded by Dr. Mayo and carried that the Board enter into Executive Session to discuss a matter that could result in an adverse action.

The Board came out of Executive Session at which time Dr. Crawford asked Dr. Miles to advise the Board's decision. Dr. Miles advised that the Board's decision is that Dr. Gillespie surrender her medical license today. Mr. Shiyou requested that he and his client have time to confer.

**HEARING IN THE CASE OF JOHN W. COX, M.D., WEST POINT, MISSISSIPPI MEDICAL LICENSE NUMBER 08934, SUMMONS AND AFFIDAVIT**

Mr. Ingram introduced Dr. Cox and his attorney Tommie Cardin and advised that they were here today to offer a resolution in Dr. Cox's hearing. Dr. Cox had been sent a proposed Consent Order and they are willing to sign the Order but wanted to request that the Board address a couple of their concerns.

Mr. Cardin addressed the 180 day suspension and asked if the Board would give Dr. Cox credit for the time he agreed through MPHP not to practice plus the three (3) months in treatment to be considered time served. The time off was nearly four (4)

**BOARD MINUTES**  
**MARCH 19, 2015**  
**Page 5**

months. This would basically mean Dr. Cox only has sixty (60) days to serve. Also, Mr. Cardin asked the Board if they would allow the sixty (60) day suspension to begin on April 1, 2015, to allow Dr. Cox time to transfer patients to other providers.

Following several questions from Board members and Dr. Hambleton advising that he would provide advocacy through MPHP, the Board agreed to the changes in the Consent Order.

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

A verbatim account of this proceeding was recorded by Amy Key, Court Reporter.

**HEARING IN THE CASE OF DOROTHY L. GILLESPIE, M.D., CONTINUED**

After conferring, Dr. Gillespie and her attorney again appeared before the Board. Mr. Shiyou asked the Board would they consider allowing Dr. Gillespie to keep her license if she would surrender her DEA. The Board denied this request.

Mr. Ingram entered several exhibits into the record and made his opening statement. Mr. Shiyou objected to several of the exhibits but was overruled by the Board.

Mr. Ingram called Investigator Harry Gunter to the witness stand and he was sworn in by the court reporter. Following questions from Mr. Ingram, Mr. Gunter was also questioned by Mr. Shiyou as well as the Board members.

Mr. Ingram called Investigator Todd Pohnert to the witness stand and he was sworn in by the court report. Mr. Ingram questioned Mr. Pohnert but Mr. Shiyou had no questions.

**THE BOARD RECESSED FOR LUNCH AT 11:45 A.M. AND RETURNED AT 12:30 P.M.**

After lunch, Mr. Ingram advised that Dr. Gillespie and her attorney had asked to confer with him. Mr. Ingram advised that Dr. Gillespie wishes to surrender her medical license. Mr. Ingram advised that Dr. Gillespie shall have the right to make application after one (1) year from the date of the Order, but stated that the Board reserves the right to utilize and consider all facts and documents now in its possession or any other information which the Board may obtain concerning Dr. Gillespie's case.



**BOARD MINUTES**

**MARCH 19, 2015**

**Page 6**

Motion was made by Dr. Miles, seconded by Dr. Mayo and carried that the Board accept the surrender of Dr. Gillespie's medical license. A copy of the Order is attached hereto and incorporated by reference.

A verbatim account of this proceeding was recorded by Amy Key, Court Reporter.

**PERSONAL APPEARANCE BY DOMINICK TRINCA, M.D., GREENVILLE,  
MISSISSIPPI MEDICAL LICENSE NUMBER 14017, REQUEST REINSTATEMENT**

Mr. Ingram, Complaint Counsel for the Board, introduced Dr. Trinca and advised that he was here today without legal counsel to request reinstatement of his Mississippi medical license. Mr. Ingram advised Dr. Trinca that Ellen O'Neal, Assistant Attorney General, would like to question him regarding legal representation. Following questions from Ms. O'Neal, Dr. Trinca stated that he wanted to waive his right to an attorney and proceed without legal counsel.

Mr. Ingram provided the Board with summary of Dr. Trinca's history with the Board and then placed several exhibits into the record. Also, Mr. Ingram summarized the summons and affidavit.

Dr. Trinca was called to the witness stand and was sworn in by the court reporter. Dr. Trinca addressed the Board and stated that he was here today to request reinstatement of his medical license and that he has advocacy from Dr. Hambleton with MPHP. Dr. Trinca discussed what he has been doing since appearing before the Board in January 2014. Following several questions from Mr. Ingram and Board members, Dr. Trinca stepped down from the witness stand.

Mr. Ingram called Thomas Washington, Bureau Director of Investigations, to the stand and he was sworn in by the court reporter. Mr. Washington answered questions from Mr. Ingram as well as Board members.

Dr. Hambleton, Medical Director of Mississippi Professionals Health Program (MPHP), was called to the witness stand and sworn in by the court reporter. Dr. Hambleton was questioned by Mr. Ingram as well as responding to questions from Board members. Dr. Hambleton stated that MPHP would advocate for Dr. Trinca as long as his license were restricted to treating male patients in a prison setting for the duration of his license.

Mr. Ingram advised the Board that the current Agreed Order that Dr. Trinca is under states that any petition for reinstatement shall be considered pursuant to MS Code Ann Section 73-25-32, which requires that the petition be accompanied by two (2)

## **BOARD MINUTES**

**MARCH 19, 2015**

**Page 7**

or more verified recommendations from physicians or osteopaths licensed by the Board as well as two (2) or more recommendations from citizens each having personal knowledge of the activities of the physician since the disciplinary penalty was imposed. Mr. Ingram advised that based on the exhibits introduced and the testimony presented that Dr. Trinca failed to submit the supporting documentation. Upon questioning, Dr. Trinca advised that he had not submitted the required documentation.

Motion was made by Dr. Miles seconded by Dr. Mayo and carried that the Board enter into Executive Session to discuss a matter that could result in adverse action.

Upon a motion by Dr. Easterling, seconded by Dr. Mayo, the Board came out of Executive Session at which time Dr. Crawford asked Dr. Miles to report on the Board's decision. Dr. Miles advised that the Board voted to deny the request for reinstatement of license based on the fact that Dr. Trinca failed to meet the requirements stated in 73-25-32. A copy of the Order Denying Reinstatement of License is attached hereto and incorporated by reference.

### **PROPOSED REGULATION CONCERNING TITLE 30, PART 2635, CHAPTER 5, PRACTICE OF TELEMEDICINE**

Dr. Brunson advised that the Committee has been working several months and submitted their proposal to the full Board. Dr. Brunson advised the Committee met yesterday and wants to present the proposal to be filed. Following a brief discussion and several questions concerning audio only and how to handle chronic issues, motion was made by Dr. Rea, seconded by Dr. Clay and carried of the Board's intent to adopt the proposed regulation concerning telemedicine. A copy of the proposed 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 TITLE 30, PART 2605, CHAPTER 1, RULE 1.2 WAIVER FOR PHYSICIANS NOT MEETING THE CURRENT LICENSING REQUIREMENTS**

Dr. Mayo advised that he had provided each Board member with the proposed language to allow the Board to consider waivers for physicians requesting licensure in certain situations. Dr. Mayo advised that the Committee met during lunch and approved the waiver that needs to be inserted in the current regulation. After discussion, motion was made by Dr. Miles, seconded by Dr. Easterling and carried that unless there are public comments received during the proposed 30 day filing period that the Board's Executive Director move forward to file for final adoption of the regulation to expedite the process. With that understanding, Dr. Mayo advised that Rules, Regulation and Legislative Committee is making a motion of the Board's intent to adopt

the regulation concerning the waiver for physicians not meeting the current licensing requirements. A copy of the proposed regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act with the final regulation being filed 30 days later.

**FINAL ADOPT AMENDMENT CHANGES TO TITLE 30, PART 2601, CHAPTERS 1 - 7, PROFESSIONAL LICENSURE**

Dr. Mayo advised that no comments were received concerning the professional licensure amendment and that the Rules, Regulation and Legislative Committee is making the motion of the Board's intent to final adopt the regulation pertaining to professional licensure. 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.

**FINAL ADOPT AMENDMENT CHANGES TO TITLE 30, PART 2605, CHAPTERS 1 - 5, CREATED TO INCORPORATE CHAPTERS 2,3,4,6 AND 7 OF PART 2601 TO REFLECT CURRENT BOARD PRACTICES AND REQUIREMENTS**

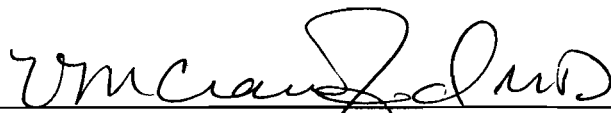
Dr. Mayo advised that no comments were received concerning the above proposed regulation and that the Rules, Regulation and Legislative Committee is making the motion of the Board's intent to final adopt the regulation pertaining to the Board's current practices and requirements. A copy of the regulation is attached hereto and incorporated by reference. The regulation will be filed with the Secretary of State under the Administrative Procedures Act.

**OTHER BUSINESS**

Dr. Mayo requested that the Nominating Committee remain a few minutes in order to have a short meeting to discuss the slate of officers being nominated at the May meeting.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 2:25 p.m., with the next meeting scheduled for Thursday, May 14, 2015.

  
\_\_\_\_\_  
**Virginia M. Crawford, M.D.**  
**President**

Minutes taken and transcribed  
by Sherry H. Pilgrim  
Staff Officer  
March 19, 2015

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**HOSAN MENANYA AZOMANI, M.D.**

**ORDER OF CONTINUANCE**

**THIS MATTER** came on regularly for hearing on March 19, 2015, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Hosan Menanya Azomani, M.D. (hereinafter "Licensee") through his attorney, R. Stewart Smith, Jr. After consideration of the matter, the Board finds Licensee's motion to be well taken.

**IT IS, THEREFORE, ORDERED**, that this matter is continued until May 14, 2015.

**SO ORDERED**, this the 19<sup>th</sup> day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY: \_\_\_\_\_



**VIRGINIA M. CRAWFORD, M.D.  
PRESIDENT**

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**BERNADETTE ELAINE SHERMAN, M.D.**

**ORDER OF CONTINUANCE**

**THIS MATTER** came on regularly for hearing on March 19, 2015, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Bernadette Elaine Sherman, M.D. (hereinafter "Licensee") through her attorney, Rajita Iyer Moss. 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 May 14, 2015.

**SO ORDERED**, this the 19<sup>th</sup> day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY: \_\_\_\_\_



**VIRGINIA M. CRAWFORD, M.D.  
PRESIDENT**

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**THEODORE EMEKA OKECHUKU, M.D.**

**ORDER OF CONTINUANCE**

**THIS MATTER** came on regularly for hearing on March 19, 2015, before the Mississippi State Board of Medical Licensure in response to a request for continuance of the hearing set for this date filed by Theodore Emeka Okechukui, M.D. (hereinafter "Licensee") through his attorney, Doug G. Mercier. After consideration of the matter, the Board finds Licensee's motion to be well taken.

**IT IS, THEREFORE, ORDERED**, that Licensee is granted a continuance until such time as Licensee has been released from the custody of law enforcement in the State of Texas;

**IT IS FURTHER ORDERED**, that in view of the nature of the pending charges, Licensee shall be prohibited from practicing medicine in the State of Mississippi until such time as the matter is heard by Mississippi State Board of Medical Licensure and a determination and order is rendered or other dispositive order is entered;

**IT IS, THEREFORE, ORDERED**, that this matter is continued until the first available regularly scheduled Board meeting.

**SO ORDERED**, this the 19<sup>th</sup> day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY: \_\_\_\_\_

  
**VIRGINIA M. CRAWFORD, M.D.  
PRESIDENT**

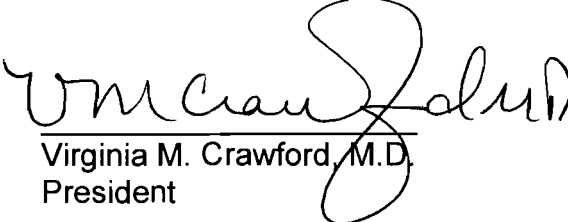
**EXECUTIVE SESSION  
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
MARCH 19, 2015**

AGENDA ITEM: Administrative Licensure Regulation

In a motion made by Dr. Chance, seconded by Dr. Rea, and carried the Board agreed that utilization review is the practice of medicine and requires a Mississippi medical license.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
John C. Clay, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, D.O.	X			
Charles D. Miles, M.D..	X			
J. Ann Rea, M.D.	X			

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

  
Virginia M. Crawford, M.D.  
President

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

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 3-20-2015	Name or number of rule(s): Part 2601 Chapter 8: Administrative Medical License		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This rule will allow physicians who are not in the active practice of medicine provide services administratively.

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.

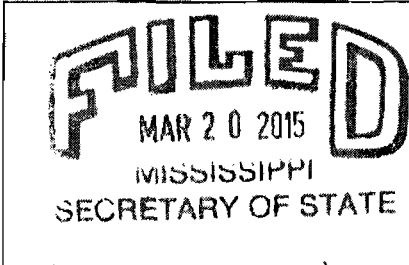
**ECONOMIC IMPACT STATEMENT:**

- 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
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: <u>1-15-15</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

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

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by	Accepted for filing by <i>#211 of [Signature]</i>

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



## **Part 2601 Chapter 8: Administrative Medical License**

**Rule 8.1 Definitions.** For the purpose of Part 2601 Chapter 8, the following terms have the meanings indicated:

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

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

**Rule 8.2 Administrative Medical License.** The Board may issue an administrative medical license to a physician who meets all qualifications for full licensure in the state, including payment of a fee set by the Board but who does not intend to provide medical or clinical services to or for patients while in possession of an administrative medical license and signs a notarized statement to that effect. An administrative medical license is subject to annual renewal.

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

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

**Adopted March 19, 2015.**

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

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 3-20-2015	Name or number of rule(s): Part 2650 Chapter 2: Public Records		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: MS Law states that Board's must make public records available; therefore, the Board is proposing this Public Records rule to assist the Board in providing said records to the public.

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.

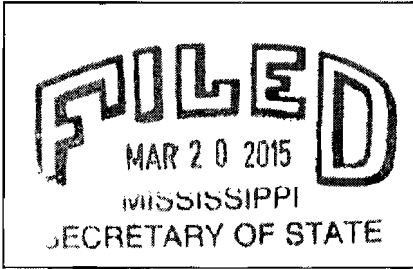
**ECONOMIC IMPACT STATEMENT:**

- 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
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: <u>1-15-15</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

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

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by	Accepted for filing by <i>#21105 JW</i>

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

## Part 2650 Chapter 2: Public Records

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

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

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

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

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

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

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

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

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

Public Records Officer  
Mississippi State Board of Medical Licensure  
1867 Crane Ridge Drive, Suite 200-B

Jackson, MS 39216  
(601) 987-3079  
(601) 987-4159 (facsimile)  
mboard@msbml.ms.gov  
Information is also available at the Board's web site at [www.msbml.ms.gov](http://www.msbml.ms.gov).

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

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

### **Rule 2.3 Availability of public records.**

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

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

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

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

Name of requestor;  
Address of requestor;  
Other contact information, including telephone number and any e-mail address;  
Identification of the public records adequate for the public records officer or designee to locate the records; and  
The date and time of day of the request.

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

(c) A form is available for use by requestors at the office of the public records officer and on-line at [www.msbnl.ms.gov](http://www.msbnl.ms.gov).

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

#### **Rule 2.4. Processing of public records requests – General.**

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

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

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

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

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

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

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

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

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

#### **(5) Inspection of records.**

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

(b) The requestor must claim or review the assembled records within thirty days of the Board's notification to him or her that the records are available for inspection or copying. The public body will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the public body to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Board may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

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

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

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

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

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

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

#### **Rule 2.5 Processing of public records requests – Electronic records.**

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

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

the public body keeps the record. Costs for providing electronic records are governed by Rule 1.9.

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

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

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

Academic records exempt from public access, see § 37-11-51.

Appraisal records exempt from access, see § 31-1-27.

Archaeological records exempt from public access, see § 39-7-41.

Attorney work product, examination, exemption, see § 25-1-102.

Birth Defects Registry, see § 41-21-205.

Bureau of vital statistics, access to records, see § 41-57-2.

Charitable organizations, registration information, exemption from public access, see § 79-11-527.

Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.

Confidentiality, ambulatory surgical facilities, see § 41-75-19.

Defendants likely to flee or physically harm themselves or others, see § 41-32-7.

Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.

Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.

Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.

Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.

Judicial records, public access, exemption, see § 9-1-38.

Jury records exempt from public records provisions, see § 13-5-97.

**Licensure application and examination records. exemption from Public Records Act, see § 73-52-1.**

Medical examiner, records and reports, see § 41-61-63.

Personnel files exempt from examination, see § 25-1-100.

Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.

Workers' compensation, access to records, see § 71-3-66.

Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

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

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

Any document filed with the Board which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the Board shall notify the person who filed the document. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Section 25-61-9, Miss. Code of 1972.

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

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



## **Rule 2.8 Costs of providing public records.**

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

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

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

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

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

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

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

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

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

## **Rule 2.9 Review of denials of public records.**

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

(2) **Consideration of petition for review.** The public records officer must promptly provide the petition and any other relevant information to the Board's Executive Director. The Executive Director will immediately consider the petition and either affirm or reverse the denial within two

business days following the Board's receipt of the petition, or within such other time as the Board and the requestor mutually agree to.

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

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

**Adopted March 19, 2015.**

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

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE APPLICATION FOR LICENSURE**

**OF**

**JOHN WARREN COX, M.D.**

**CONSENT ORDER**

**WHEREAS, JOHN WARREN COX, M.D.**, hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License No. 08934, said license number expires on June 30, 2015;

**WHEREAS**, the Investigative Staff of the Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," has conducted an investigation of Licensee 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, Part 2630, Chapter 1: *Collaboration/Consultation with Nurse Practitioners*; is guilty of failing to ensure backup physician coverage for the Advanced Practice Registered Nurse(s) with whom he was in a collaborative relationship with at a time when Licensee was unavailable; is guilty of being disciplined by a licensed hospital or medical staff of said hospital; and is guilty of unprofessional conduct, which includes being guilty of any dishonorable or unethical conduct likely to deceive, defraud or harm the public;

**WHEREAS**, the above conduct, if established before the Board, constitutes violations of the Mississippi Medical Practice Act, specifically, Subsections (8)(d) and (13) of § 73-25-29 and § 73-25-83(a) and (c), Miss. Code Ann. (1972), as amended, for which

the Board may revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action as the Board may deem proper under the circumstances;

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

**NOW, THEREFORE**, the Mississippi State Board of Medical Licensure with consent of Licensee as signified by his joinder herein, does hereby **suspend** and **restrict** Licensee's medical license, subject to the following terms and conditions, to-wit:

1. Licensee's medical license (No. 08934) 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 sixty (60) days. At the first available meeting date following the one (1) year suspension term, Licensee shall appear before the Board to review his compliance. Notwithstanding the one year term stated herein, all restrictions shall remain until ordered removed by the Board. In order to provide Licensee the opportunity to appropriately refer patients to new providers, the suspension clause of this consent order shall be effective beginning April 1, 2015. Upon the expiration of the aforementioned sixty day suspension term on June 1, 2015, Licensee may resume the practice of medicine automatically without a personal appearance before the Board. For the purposes of the one (1) year suspension period, Licensee may not appear prior to the regularly scheduled meeting of the Board in May, 2016.
2. Licensee is hereby restricted from collaborating with any mid-level providers, including but not limited to any APRNs (Nurse Practitioners) or Physician Assistants

(P.A.s) beginning April 1, 2015. This restriction shall be implemented for a period of at least **5 years**. Thereafter, if Licensee has complied with all stipulations of this order and so desires to lift the terms stated herein, Licensee shall petition to appear before the Board to request all restrictions be removed from his medical license.

3. Licensee's medical practice shall be subject to periodic surveillance. The Board's Executive 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.
4. Licensee shall attend and successfully complete Continuing Medical Education (CME) courses in the area of Collaboration with Mid-Level Providers and Medical Ethics. The CME courses required herein shall be attained by attending the following courses: *Ensuring Quality in the Collaborative Practice*, as offered by the Medical Association of Alabama and *Medical Ethics and Professionalism*, as offered by Professional Boundaries, Inc (PBI). Licensee shall be required to participate in the optional 12 month followup and evaluation review as offered by the PBI Ethics course required herein. Any credit received for such CME 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 the CME courses, as the courses can not be taken on-line or by other means. Following completion, Licensee shall submit to the Board documentation evidencing successful completion of the CME required herein.
5. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.

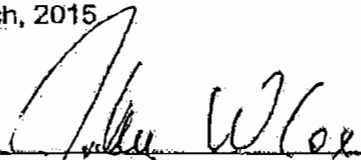
6. Should the Board hereafter receive documented evidence of Licensee violating any of the terms and conditions of this Consent Order, the Board shall have the right to revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action determined as necessary by the Board.
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. Licensee also understands he must personally appear to answer any questions the Board may have. 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.

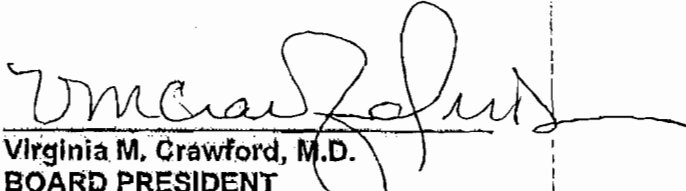
Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the State of Mississippi. Licensee further acknowledges that the Board shall provide a copy of this Order to, among 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 his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann., § 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, **JOHN WARREN COX, M.D.**, nevertheless, hereby waives his right to notice and a formal adjudication of charges and authorizes the Board to enter an order accepting this Consent Order, thereby restricting his medical license, subject to those terms and conditions listed above.

Executed, this the 24, day of March, 2015

  
\_\_\_\_\_  
**JOHN WARREN COX, M.D.**

**ACCEPTED AND APPROVED**, this the 19<sup>th</sup>, day of March, 2015, by the  
Mississippi State Board of Medical Licensure.

  
\_\_\_\_\_  
**Virginia M. Crawford, M.D.**  
**BOARD PRESIDENT**

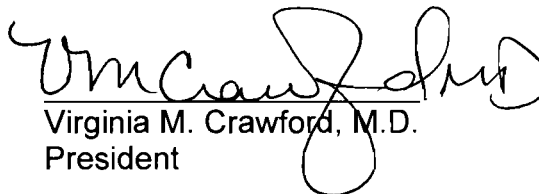
**EXECUTIVE SESSION  
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
MARCH 19, 2015**

AGENDA ITEM: Hearing in the case of Dorothy L. Gillespie, M.D.

In a motion made by Dr. Easterling, seconded by Dr. Mayo, and carried the Board's offer is that Dr. Gillespie surrender her medical license today. (Settlement offer rejected).

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
John C. Clay, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, D.O.	X			
Charles D. Miles, M.D.	X			
J. Ann Rea, M.D.	X			

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

  
Virginia M. Crawford, M.D.  
President



**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**DOROTHY GILLESPIE, M.D.**

**ORDER ACCEPTING SURRENDER OF LICENSE**

THIS MATTER came on regularly for hearing on March 19, 2015, 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 15, 2014, by issuance of a Summons and Affidavit against Dorothy Gillespie, M.D., (hereinafter "Licensee") setting forth a total of twenty-six (26) counts of violation of Miss. Code Ann. Sections 73-25-29 and 73-25-83. This matter was initially set for hearing on January 15, 2015, but upon request of Licensee, was continued to this date.

Licensee was present, represented by Honorable Al Shiyou. Complaint Counsel for the Board was Honorable Stan T. Ingram. Sitting as legal advisor to the Board was Honorable Ellen O'Neal, Assistant Attorney General. Board members present for the proceedings were Virginia Crawford, M.D.; President, William S. Mayo, D.O.; Claude D. Brunson, M.D.; S. Randall Easterling, M.D.; Rickey L. Chance, D.O.; Charles D. Miles, M.D.; Ken Lippincott, M.D.; Ann Rea, M.D.; and John Clay, M.D.

After commencement of the hearing, introduction of all exhibits and receipt of testimony from Board Investigator Harry Gunter, the Affiant in this matter, an announcement was made by Licensee that she wishes to unconditionally surrender her license to practice medicine in the State of Mississippi. Upon full consideration of the matter, the Board accepted the surrender.

**NOW THEREFORE, IT IS ORDERED**, that the surrender of License No. 09056, duly issued to Dorothy Gillespie, M.D., hereby is accepted. Said license shall hereinafter be deemed null and void.

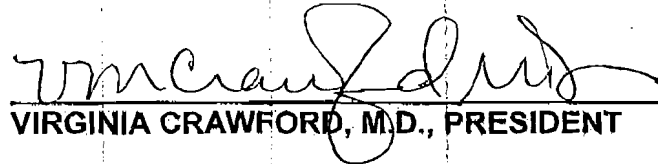
**IT IS FURTHER ORDERED** that Dorothy Gillespie, M.D. shall have the right, but not the obligation, to make application for a new medical license after expiration of at least one (1) year from the date of this order. In such an event, the Board reserves the right to utilize and consider all facts and documents now in its possession or any other information which the Board may hereinafter obtain as to Dorothy Gillespie, M.D.

**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 Dorothy Gillespie, M.D., or her counsel, Al Shiyou.

**SO ORDERED**, this the 19th day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

**BY:**

  
**VIRGINIA CRAWFORD, M.D., PRESIDENT**

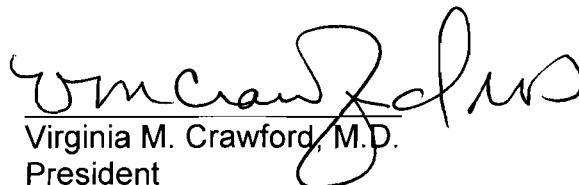
**EXECUTIVE SESSION  
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE  
MARCH 19, 2015**

AGENDA ITEM: Personal appearance by Dominick Trinca, M.D.

In a motion made by Dr. Easterling, seconded by Dr. Mayo, and carried the Board denies the request for reinstatement of his license based on the fact that he failed to meet the requirements stated in 73-25-32.

<u>VOTE:</u>	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Claude D. Brunson, M.D.	X			
Rickey L. Chance, D.O.	X			
John C. Clay, M.D.	X			
Virginia M. Crawford, M.D.	X			
S. Randall Easterling, M.D.	X			
C. Ken Lippincott, M.D.	X			
William S. Mayo, D.O.	X			
Charles D. Miles, M.D.	X			
J. Ann Rea, M.D.	X			

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

  
Virginia M. Crawford, M.D.  
President

**BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE**

**IN THE MATTER OF THE PHYSICIAN'S LICENSE**

**OF**

**DOMINIC TRINCA, M.D.**

**ORDER DENYING REINSTATEMENT OF LICENSE**

THIS MATTER came on regularly for hearing on March 19, 2015, before the Mississippi State Board of Medical Licensure (hereinafter "Board"), pursuant to Title 73, Chapter 25 of Mississippi Code (1972) Annotated. Dominic Trinca, M.D. (hereinafter "Licensee") initiated these proceedings on February 11, 2015, by submitting his request for reinstatement of licensure. On January 16, 2014, Licensee entered into an Agreed Order with the Board, wherein his license was indefinitely suspended with the right to petition for reinstatement after expiration of one (1) year pursuant to Miss. Code Ann. Section 73-25-32.

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 the proceedings were Virginia Crawford, M.D., President; William S. Mayo, D.O.; Claude D. Brunson, M.D.; S. Randall Easterling, M.D.; Rickey L. Chance, D.O.; Charles D. Miles, M.D.; Ken Lippincott, M.D.; Ann Rea, M.D.; and John Clay, M.D.

Based on the exhibits introduced and testimony presented, it was determined that Licensee failed to submit all supporting recommendations as required by Miss. Code Ann. Section 73-25-32. Further the Board finds that Licensee failed to meet the requisite character and other criteria needed for reinstatement.

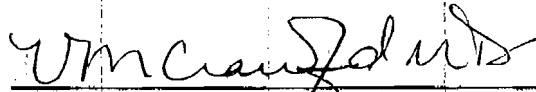
**NOW THEREFORE, IT IS ORDERED**, that the request of Dominic Trinca, M.D. for reinstatement of licensure is hereby denied. Dr. Trinca shall have the right, but not the obligation, to seek reinstatement after expiration of at least one (1) year from the date of this Order.

**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 Dominic Trinca, M.D.

**SO ORDERED**, this the 19th day of March, 2015.

**MISSISSIPPI STATE BOARD OF  
MEDICAL LICENSURE**

BY:

  
\_\_\_\_\_

**VIRGINIA CRAWFORD, M.D., PRESIDENT**

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

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 3-23-2015	Name or number of rule(s): Part 2605 Chapter 5		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Part 2605 Chapter 5 is being deleted and replaced with updated rules regarding the practice of telemedicine.

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

List all rules repealed, amended, or suspended by the proposed rule: Title 30 Part 2605 Chapter 5

**ORAL PROCEEDING:**

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

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

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

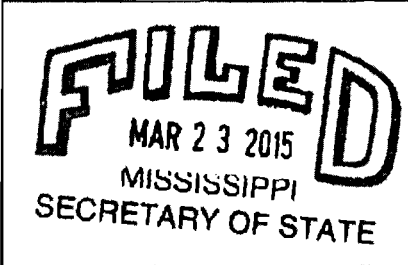
**ECONOMIC IMPACT STATEMENT:**

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

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

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

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

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by <i>[Signature]</i> #2111	Accepted for filing by

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

*Part 2635 Chapter 5: Practice of Telemedicine*

*Rule 5.1 Preamble.* These regulations are intended to authorize M.D. and D.O. licensees of the Mississippi State Board of Medical Licensure to practice telemedicine as defined herein under the criteria and standards set forth.

These regulations should not be construed to alter the scope of practice of any health care licensee or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law. In fact, these regulations support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method in enabling physician-to-patient communications. These regulations should likewise not be construed to alter or affect the long-standing practice of the use of telephone-based contact between practitioners and their established patients, which practice is not considered telemedicine and is not covered by these regulations.

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

*Rule 5.2 Definitions.* For the purpose of Chapter 5 only, the following terms have the meanings indicated:

- A. “Physician” means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi.
- B. “Telemedicine” means the practice of medicine using electronic communications, information technology or other means between a licensee in one location, and a patient in another location with or without an intervening healthcare provider; telemedicine does not include an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.<sup>1</sup>
- C. “Store and Forward (S & F)” is a type of telehealth encounter or consult that uses still digital images of patient data for rendering a medical opinion or diagnosis based on the image. Common services are radiology, pathology, dermatology, ophthalmology and wound care. Store and forward includes the asynchronous transmission of clinical data from one site to another.
- D. “Teleemergency Medicine” is a unique combination of telemedicine and the collaborative/consultative role of a physician board certified in emergency medicine and a licensed health professional.

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<sup>1</sup> Colorado Board of Medical Examiners, *Policy Statement Concerning the Physician-Patient Relationship.*

- E. “Telemedicine Technologies” means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening healthcare provider.<sup>2</sup>
- F. “Established medical site” is a location where a patient would present to seek medical care, where there is a patient site presenter, and where there are sufficient technology and medical equipment to allow for an adequate physical evaluation which is appropriate for the patient’s presenting complaint.
- G. “Patient Site Presenter” is the individual at the patient site location who introduces the patient to the distant site physician for examination and whom the distant site physician may delegate tasks and activities. No tasks should be delegated to the Site Presenter that the Site Presenter is not licensed or trained to perform. The Site Presenter may or may not be a health care provider.
- H. “Distant Site Provider” is a health care provider providing telemedicine services who is not on site with the patient.
- I. “Kiosk” is an enclosed self-contained structure where teleconsults occur that includes videoconferencing with/without medication dispensing capabilities that is used to deliver telemedicine services.

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

*Rule 5.3 Licensure.* The practice of medicine is deemed to occur in the location of the patient. Therefore only physicians who hold a valid unrestricted Mississippi license are allowed to practice telemedicine in Mississippi.

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

*Rule 5.4 Establishment of a Physician-Patient Relationship.* Where an existing physician-patient relationship is not present, a physician must take appropriate steps to establish a physician-patient relationship consistent with standard of practice guidelines, such physician-patient relationships may be established using telemedicine technologies provided the standard of care is met.<sup>2</sup>

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

*Rule 5.5 Informed Consent.* Evidence documenting appropriate patient informed consent for the use of telemedicine technologies must be obtained and maintained. Appropriate informed consent must include the following terms:

- identification of the patient, the physician and the physician’s credentials;

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<sup>2</sup> Federation of State Medical Boards, *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*



- notice that the physician will determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- details on security measures taken with the use of telemedicine technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- disclosure of the possibility of loss of information due to technology failures;
- express patient consent to forward patient-identifiable information to a third party;<sup>2</sup>
- assurance of the availability of appropriate follow-up care;
- notice that a complete medical record will be maintained and made available to patient and other treating health care providers, and
- notice regarding the limitations of telemedicine medical services, including the risks and benefits of being treated via telemedicine, how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A signed and dated consent by the patient establishes a presumption of notice.<sup>3</sup>

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

*Rule 5.6 Examination.* Physicians using telemedicine technologies to provide medical care to patients located in Mississippi must provide an appropriate examination prior to diagnosis and treatment of the patient. However, this exam need not be in person if the technology is sufficient to provide the adequate information needed by the physician as if the exam had been performed face-to-face.

The management of chronic illnesses requires the evaluation of laboratory tests at times therefore the use of telehealth services does not alleviate the need for the use of these tests to properly evaluate and monitor disease status and control. This can be accomplished in partnership with a traditional health facility where in-person health care services with laboratory testing are provided to the patient and results are made available to the telehealth provider or by the patient providing the results from current and appropriate laboratory testing to the telehealth provider.

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings. Treatment, including issuing a prescription based solely on an online questionnaire,

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<sup>3</sup> Texas Medical Board Rules, *Texas Administrative Code, Title 22, Part 9, Chapter 174. Telemedicine*

does not constitute an acceptable standard of care.<sup>3</sup> Such practice is a violation of this policy and may subject the physician to discipline by the Board.

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

*Rule 5.7 Telemedicine Medical Services Provided at an Established Medical Site.* Telehealth medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a proper provider-patient relationship between a distant site provider and a patient.

For new conditions, a patient site presenter must be reasonably available on site at the established medical site to assist with the provision of care. The distant site provider has discretion to determine if a patient site presenter is necessary for follow-up evaluation or treatment of a previously diagnosed condition.

A distant site provider may delegate tasks and activities to a patient site presenter during a patient encounter. A distant site provider delegating tasks to a patient site presenter shall only delegate tasks that are within the scope of practice of the telepresenter, should one be present during the telehealth encounter.

If the only services provided are related to mental health, a patient site presenter is not required except in cases where the patient may be a danger to himself/herself or others.<sup>3</sup>

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

*Rule 5.8 Telemedicine Services Provided at Sites other than an Established Medical Site.* This includes consults that are provided directly to patients without the referral of a referring physician in the setting of the patients' choice.

These consults are not required to have a telepresenter, but must follow all other guidelines set for telemedicine. These programs are designed for use by consumers without the requirement of care being rendered at an established medical site.

In this case, these programs would provide, in writing, the details of the program, training of providers, what conditions are eligible for treatment in this setting, how follow-up would be handled, and how patients who need an in person visit would be referred.

Electronic documentation of the teleconsult must be available for the patient and the patient's primary care provider upon request.

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

*Rule 5.9 Continuity of Care.* Patients should be able to seek, with relative ease, follow-up care or information from the physician [or physician's designee] who conducts an encounter using telemedicine technologies. Physicians solely providing services using telemedicine technologies with no existing physician-patient relationship prior to the encounter must make documentation of the encounter using telemedicine technologies easily available to the patient, and subject to the patient's consent, any identified care provider of the patient immediately after the encounter.<sup>3</sup> Patients must be provided contact information that will enable them to contact the physician or designee for questions regarding appointments, treatment plans, or prescriptions.

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

*Rule 5.10 Provision for in-person care.* Any physician providing telemedicine services in Mississippi must have a formal agreement with a Mississippi based healthcare entity who will fulfill any need for in person care should the telemedicine exam warrant further testing or examination. This agreement does not preclude the patient from choosing where they receive the additional care.

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

*Rule 5.11 Referrals for Emergency Services.* An emergency plan is required and must be provided by the physician to the patient when the care provided using telemedicine technologies indicates that a referral to an acute care facility or ER for treatment is necessary for the safety of the patient. The emergency plan should include a protocol appropriate to the services being rendered via telemedicine technologies.<sup>3</sup>

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

*Rule 5.12 Medical Records.* The provider treating a patient through a telemedicine network must maintain a complete record of the patient's care. The provider must maintain the record's confidentiality and disclose the record to the patient consistent with state and federal laws. If the patient has a primary treating provider and a telemedicine provider for the same medical condition, then the primary provider's medical record and the telemedicine provider's record constitute one complete patient record. There must be a mechanism in place to facilitate sharing of medical records between providers when appropriate or at the patient's request. The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-physician communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine technologies. Informed consents obtained in connection with an encounter involving telemedicine technologies should also be filed in the medical record. The patient record established during the use of telemedicine technologies must be accessible and documented for both the physician and the patient, consistent with all established laws and regulations governing patient healthcare records.

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

*Rule 5.13 Collaborative/Consultative Physician Limited.* No physician practicing telemergency medicine shall be authorized to function in a collaborative/consultative role as outlined in Part 2630, Chapter 1 unless his or her practice location is a Level One Hospital Trauma Center or other hospital facility that is able to provide continuous twenty-four hour coverage and has an existing air ambulance system in place. Coverage will be authorized only for those emergency departments of licensed hospitals who have an average daily census of thirty (30) or fewer acute care/medical surgical occupied beds as defined by their Medicare Cost Report.

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

*Rule 5.14 Privacy practices and Security of Patient Records & Exchange of Information.* Physicians should meet or exceed applicable federal and state legal requirements of medical/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and state privacy, confidentiality, security, and medical retention rules. Physicians are referred to “Standards for Privacy of Individually Identifiable Health Information,” issued by the Department of Health and Human Services (HHS).<sup>4</sup> Guidance documents are available on the HHS Office for Civil Rights Web site at: [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).

Written policies and procedures should be maintained and updated at the same standard as traditional face-to-face encounters for documentation, maintenance, and transmission of the records of the encounter using telemedicine technologies. These policies should also include information addressing the availability of the services, hours of operation, process for communication with providers outside hours of operation, medical record storage and retrieval process, and quality oversight mechanisms. Sufficient privacy and security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology (i.e. password protected, encrypted electronic prescriptions, or other reliable authentication techniques). All patient-physician e-mail, as well as other patient-related electronic communications, should be stored and filed in the patient’s medical record, consistent with traditional record-keeping policies and procedures.

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

*Rule 5.15 Disclosures and Functionality on Online Services Making Available Telemedicine Technologies.* (Telemedicine Medical Services Provided at Sites other than an Established Medical Site)

Online services used by physicians providing medical services using telemedicine technologies should clearly disclose:

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<sup>4</sup> AMA. *Report of the Council on Medical Service*. Medical Care Online. 4-A-01 (June 2001).

- specific services provided;
- contact information for physician;
- licensure and qualifications of physician(s) and associated physicians;
- appropriate uses and limitations of the site, including emergency health situations; and
- rights of patients with respect to patient health information.

Online services used by physicians providing medical services using telemedicine technologies should provide patients a clear mechanism to:

- access, supplement and amend patient-provided personal health information;
- provide feedback regarding the site and the quality of information and services, and
- register complaints, including information regarding filing a complaint with the applicable state medical and osteopathic board(s).

Online services must have accurate and transparent information about the website owner/operator, location, and contact information, including a domain name that accurately reflects the identity.

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

*Rule 5.16 Prescribing.* Prescribing medications, in-person or via telemedicine, is at the professional discretion of the physician. The indication, appropriateness, and safety considerations for each telemedicine visit prescription must be evaluated by the physician in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, physicians may exercise their judgment and prescribe medications as part of telemedicine encounters.<sup>3</sup> A physician may not prescribe medications based on a phone call or a questionnaire for the purpose of telemedicine. Videoconferencing is required as part of the teleconsult if a medication is to be prescribed. Telehealth services is not intended and therefore shall not be used for the management of chronic pain with controlled substance prescription drugs.

If a Kiosk with pharmacy dispensing capabilities is used to deliver medications; there must be, at minimum, a 3-point verification to ensure safe prescribing and dispensing and must follow any related regulations by the Mississippi Board of Pharmacy.

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

*Rule 5.17 Advertising and Telehealth.* Direct to consumer advertising of medications or the marketing of specific products where the telehealth provider has a financial interest for the services or purchase of the specific product is prohibited unless it is educational in nature and is to promote medication safety and allows for informed decisions. No advertising should be

directed to minors. Any direct to consumer medication advertising material available on the internet should comply with the Food and Drug Administration's policies for adverse event reporting system (AERS).

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

*Part 2635 Chapter 5: Practice of Telemedicine*

Rule 5.1 Preamble. These regulations are intended to authorize M.D. and D.O. licensees of the Mississippi State Board of Medical Licensure to practice telemedicine as defined herein under the criteria and standards set forth.

These regulations should not be construed to alter the scope of practice of any health care licensee or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law. In fact, these regulations support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method in enabling physician-to-patient communications. These regulations should likewise not be construed to alter or affect the long-standing practice of the use of telephone-based contact between practitioners and their established patients, which practice is not considered telemedicine and is not covered by these regulations.

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

Rule 5.2 Definitions. For the purpose of Chapter 5 only, the following terms have the meanings indicated:

- A. “Physician” means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi.
- B. “Telemedicine” means the practice of medicine using electronic communications, information technology or other means between a licensee in one location, and a patient in another location with or without an intervening healthcare provider; telemedicine does not include an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.<sup>5</sup>
- C. “Store and Forward (S & F)” is a type of telehealth encounter or consult that uses still digital images of patient data for rendering a medical opinion or diagnosis based on the image. Common services are radiology, pathology, dermatology, ophthalmology and wound care. Store and forward includes the asynchronous transmission of clinical data from one site to another.
- D. “Teleemergency Medicine” is a unique combination of telemedicine and the collaborative/consultative role of a physician board certified in emergency medicine and a licensed health professional.

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<sup>5</sup> Colorado Board of Medical Examiners, *Policy Statement Concerning the Physician-Patient Relationship*.

- E. “Telemedicine Technologies” means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening healthcare provider.<sup>6</sup>
- F. “Established medical site” is a location where a patient would present to seek medical care, where there is a patient site presenter, and where there are sufficient technology and medical equipment to allow for an adequate physical evaluation which is appropriate for the patient’s presenting complaint.
- G. “Patient Site Presenter” is the individual at the patient site location who introduces the patient to the distant site physician for examination and whom the distant site physician may delegate tasks and activities. No tasks should be delegated to the Site Presenter that the Site Presenter is not licensed or trained to perform. The Site Presenter may or may not be a health care provider.
- H. “Distant Site Provider” is a health care provider providing telemedicine services who is not on site with the patient.
- I. “Kiosk” is an enclosed self-contained structure where teleconsults occur that includes videoconferencing with/without medication dispensing capabilities that is used to deliver telemedicine services.

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

Rule 5.3 Licensure. The practice of medicine is deemed to occur in the location of the patient. Therefore only physicians who hold a valid unrestricted Mississippi license are allowed to practice telemedicine in Mississippi.

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

Rule 5.4 Establishment of a Physician-Patient Relationship. Where an existing physician-patient relationship is not present, a physician must take appropriate steps to establish a physician-patient relationship consistent with standard of practice guidelines, such physician-patient relationships may be established using telemedicine technologies provided the standard of care is met.<sup>2</sup>

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

Rule 5.5 Informed Consent. Evidence documenting appropriate patient informed consent for the use of telemedicine technologies must be obtained and maintained. Appropriate informed consent must include the following terms:

- identification of the patient, the physician and the physician’s credentials;

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<sup>6</sup> Federation of State Medical Boards, *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*



- notice that the physician will determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- details on security measures taken with the use of telemedicine technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- disclosure of the possibility of loss of information due to technology failures;
- express patient consent to forward patient-identifiable information to a third party;<sup>2</sup>
- assurance of the availability of appropriate follow-up care;
- notice that a complete medical record will be maintained and made available to patient and other treating health care providers, and
- notice regarding the limitations of telemedicine medical services, including the risks and benefits of being treated via telemedicine, how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A signed and dated consent by the patient establishes a presumption of notice.<sup>7</sup>

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

Rule 5.6 Examination. Physicians using telemedicine technologies to provide medical care to patients located in Mississippi must provide an appropriate examination prior to diagnosis and treatment of the patient. However, this exam need not be in person if the technology is sufficient to provide the adequate information needed by the physician as if the exam had been performed face-to-face.

The management of chronic illnesses requires the evaluation of laboratory tests at times therefore the use of telehealth services does not alleviate the need for the use of these tests to properly evaluate and monitor disease status and control. This can be accomplished in partnership with a traditional health facility where in-person health care services with laboratory testing are provided to the patient and results are made available to the telehealth provider or by the patient providing the results from current and appropriate laboratory testing to the telehealth provider.

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings. Treatment, including issuing a prescription based solely on an online questionnaire,

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<sup>7</sup> Texas Medical Board Rules, *Texas Administrative Code, Title 22, Part 9, Chapter 174. Telemedicine*

does not constitute an acceptable standard of care.<sup>3</sup> Such practice is a violation of this policy and may subject the physician to discipline by the Board.

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

Rule 5.7 Telemedicine Medical Services Provided at an Established Medical Site. Telehealth medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a proper provider-patient relationship between a distant site provider and a patient.

For new conditions, a patient site presenter must be reasonably available on site at the established medical site to assist with the provision of care. The distant site provider has discretion to determine if a patient site presenter is necessary for follow-up evaluation or treatment of a previously diagnosed condition.

A distant site provider may delegate tasks and activities to a patient site presenter during a patient encounter. A distant site provider delegating tasks to a patient site presenter shall only delegate tasks that are within the scope of practice of the telepresenter, should one be present during the telehealth encounter.

If the only services provided are related to mental health, a patient site presenter is not required except in cases where the patient may be a danger to himself/herself or others.<sup>3</sup>

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

Rule 5.8 Telemedicine Services Provided at Sites other than an Established Medical Site. This includes consults that are provided directly to patients without the referral of a referring physician in the setting of the patients' choice.

These consults are not required to have a telepresenter, but must follow all other guidelines set for telemedicine. These programs are designed for use by consumers without the requirement of care being rendered at an established medical site.

In this case, these programs would provide, in writing, the details of the program, training of providers, what conditions are eligible for treatment in this setting, how follow-up would be handled, and how patients who need an in person visit would be referred.

Electronic documentation of the teleconsult must be available for the patient and the patient's primary care provider upon request.

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

Rule 5.9 Continuity of Care. Patients should be able to seek, with relative ease, follow-up care or information from the physician [or physician's designee] who conducts an encounter using telemedicine technologies. Physicians solely providing services using telemedicine technologies with no existing physician-patient relationship prior to the encounter must make documentation of the encounter using telemedicine technologies easily available to the patient, and subject to the patient's consent, any identified care provider of the patient immediately after the encounter.<sup>3</sup> Patients must be provided contact information that will enable them to contact the physician or designee for questions regarding appointments, treatment plans, or prescriptions.

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

Rule 5.10 Provision for in-person care. Any physician providing telemedicine services in Mississippi must have a formal agreement with a Mississippi based healthcare entity who will fulfill any need for in person care should the telemedicine exam warrant further testing or examination. This agreement does not preclude the patient from choosing where they receive the additional care.

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

Rule 5.11 Referrals for Emergency Services. An emergency plan is required and must be provided by the physician to the patient when the care provided using telemedicine technologies indicates that a referral to an acute care facility or ER for treatment is necessary for the safety of the patient. The emergency plan should include a protocol appropriate to the services being rendered via telemedicine technologies.<sup>3</sup>

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

Rule 5.12 Medical Records. The provider treating a patient through a telemedicine network must maintain a complete record of the patient's care. The provider must maintain the record's confidentiality and disclose the record to the patient consistent with state and federal laws. If the patient has a primary treating provider and a telemedicine provider for the same medical condition, then the primary provider's medical record and the telemedicine provider's record constitute one complete patient record. There must be a mechanism in place to facilitate sharing of medical records between providers when appropriate or at the patient's request. The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-physician communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine technologies. Informed consents obtained in connection with an encounter involving telemedicine technologies should also be filed in the medical record. The patient record established during the use of telemedicine technologies must be accessible and documented for both the physician and the patient, consistent with all established laws and regulations governing patient healthcare records.

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

Rule 5.13 Collaborative/Consultative Physician Limited. No physician practicing telemergency medicine shall be authorized to function in a collaborative/consultative role as outlined in Part 2630, Chapter 1 unless his or her practice location is a Level One Hospital Trauma Center or other hospital facility that is able to provide continuous twenty-four hour coverage and has an existing air ambulance system in place. Coverage will be authorized only for those emergency departments of licensed hospitals who have an average daily census of thirty (30) or fewer acute care/medical surgical occupied beds as defined by their Medicare Cost Report.

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

Rule 5.14 Privacy practices and Security of Patient Records & Exchange of Information. Physicians should meet or exceed applicable federal and state legal requirements of medical/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and state privacy, confidentiality, security, and medical retention rules. Physicians are referred to “Standards for Privacy of Individually Identifiable Health Information,” issued by the Department of Health and Human Services (HHS).<sup>8</sup> Guidance documents are available on the HHS Office for Civil Rights Web site at: [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).

Written policies and procedures should be maintained and updated at the same standard as traditional face-to-face encounters for documentation, maintenance, and transmission of the records of the encounter using telemedicine technologies. These policies should also include information addressing the availability of the services, hours of operation, process for communication with providers outside hours of operation, medical record storage and retrieval process, and quality oversight mechanisms. Sufficient privacy and security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must be secure within existing technology (i.e. password protected, encrypted electronic prescriptions, or other reliable authentication techniques). All patient-physician e-mail, as well as other patient-related electronic communications, should be stored and filed in the patient’s medical record, consistent with traditional record-keeping policies and procedures.

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

Rule 5.15 Disclosures and Functionality on Online Services Making Available Telemedicine Technologies. (Telemedicine Medical Services Provided at Sites other than an Established Medical Site)

Online services used by physicians providing medical services using telemedicine technologies should clearly disclose:

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<sup>8</sup> AMA. Report of the Council on Medical Service. Medical Care Online. 4-A-01 (June 2001).

- specific services provided;
- contact information for physician;
- licensure and qualifications of physician(s) and associated physicians;
- appropriate uses and limitations of the site, including emergency health situations;  
and
- rights of patients with respect to patient health information.

Online services used by physicians providing medical services using telemedicine technologies should provide patients a clear mechanism to:

- access, supplement and amend patient-provided personal health information;
- provide feedback regarding the site and the quality of information and services,  
and
- register complaints, including information regarding filing a complaint with the  
applicable state medical and osteopathic board(s).

Online services must have accurate and transparent information about the website owner/operator, location, and contact information, including a domain name that accurately reflects the identity.

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

Rule 5.16 Prescribing. Prescribing medications, in-person or via telemedicine, is at the professional discretion of the physician. The indication, appropriateness, and safety considerations for each telemedicine visit prescription must be evaluated by the physician in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, physicians may exercise their judgment and prescribe medications as part of telemedicine encounters.<sup>3</sup> A physician may not prescribe medications based on a phone call or a questionnaire for the purpose of telemedicine. Videoconferencing is required as part of the teleconsult if a medication is to be prescribed. Telehealth services is not intended and therefore shall not be used for the management of chronic pain with controlled substance prescription drugs.

If a Kiosk with pharmacy dispensing capabilities is used to deliver medications; there must be, at minimum, a 3-point verification to ensure safe prescribing and dispensing and must follow any related regulations by the Mississippi Board of Pharmacy.

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

Rule 5.17 Advertising and Telehealth. Direct to consumer advertising of medications or the marketing of specific products where the telehealth provider has a financial interest for the services or purchase of the specific product is prohibited unless it is educational in nature and is to promote medication safety and allows for informed decisions. No advertising should be

directed to minors. Any direct to consumer medication advertising material available on the internet should comply with the Food and Drug Administration's policies for adverse event reporting system (AERS).

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

*Part 2635 Chapter 5: Practice of Telemedicine*

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

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

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

~~*Rule 5.2 Licensure.*—The practice of medicine is deemed to occur in the location of the patient. Therefore only physicians holding a valid Mississippi license are allowed to practice telemedicine in Mississippi. However, a valid Mississippi license is not required where the evaluation, treatment and/or medicine given to be rendered by a physician outside of Mississippi is requested by a physician duly licensed to practice medicine in Mississippi, and the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated.~~

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

~~*Rule 5.3 Informed Consent.* The physician using telemedicine should obtain the patient’s informed consent before providing care via telemedicine technology. In addition to information relative to treatment, the patient should be informed of the risk and benefits of being treated via a telemedicine network including how to receive follow-up care or assistance in the event of an adverse reaction to treatment or if there is a telemedicine equipment failure.~~

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

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

- A. ~~verify that the person requesting the medical treatment is in fact who they claim to be;~~
- B. ~~conducting an appropriate examination of the patient that meets the applicable standard of care;~~

- ~~C. establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;~~
- ~~D. discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;~~
- ~~E. insuring the availability of appropriate follow up care; and~~
- ~~F. maintaining a complete medical record available to patient and other treating health care providers.~~

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

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

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

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

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

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

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

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



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

~~Amended October 15, 2003. Amended November 4, 2004. Amended January 30, 2006.  
Amended May 20, 2010.~~

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

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

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 3-23-2015	Name or number of rule(s): Part 2605 Chapters I Rule 1.2		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Part 2605 Chapter 1 Rule 1.2 is being added to include a waiver for physicians not meeting the current licensing requirements.  
 Specific legal authority authorizing the promulgation of rule: 73-43-11  
 List all rules repealed, amended, or suspended by the proposed rule: Title 30 Part 2605 Chapter 1 Rule 1.2

**ORAL PROCEEDING:**

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

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

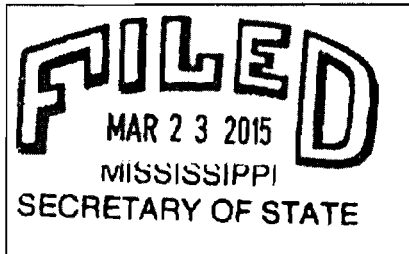
**ECONOMIC IMPACT STATEMENT:**

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

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

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

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

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
		
Accepted for filing by	Accepted for filing by <i>[Signature]</i> #21109	Accepted for filing by

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

## **Part 2605: Medical, Osteopathic and Podiatric Physicians**

### **Part 2605 Chapter 01: Licensure Requirements for the Practice of Allopathic and Osteopathic Physicians**

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

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

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

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

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

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

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

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

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

2. Submits proof that the applicant's sole purpose for seeking licensure is to serve as the Dean, Chairman of the Department or Faculty of an ACGME or AOA approved training program. In such case, a license shall remain in effect so long as licensee is a member of the faculty of the ACGME or AOA approved training program.
- F. Submit certified copy of birth certificate or valid passport.
- G. Complete an application for medical license and submit it to the Board in a manner prescribed by the Board with a recent passport type photograph.
- H. Submit fee prescribed by the Board.
- I. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.

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

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

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

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

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

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

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

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

A. FLEX

1. The Board adopted the FLEX as the method of licensure by examination on March 8, 1973. The last regular administration of the FLEX was December 1993. The Board will recognize FLEX as a valid medical licensing examination subject to all requirements heretofore and hereinafter set forth.
2. Prior to January 24, 1985, the FLEX examination was divided into three components:

Day I--Basic Science

Day II--Clinical Science

Day III--Clinical Competence

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

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

3. An applicant had seven (7) years in which to pass both components of the FLEX.
- B. USMLE
1. The USMLE is a three-step examination for medical licensure in the United States and is sponsored by the FSMB and NBME. The Board adopted the USMLE as an additional method of licensure by examination on September 16, 1993. The USMLE replaced FLEX and the NBME certification examinations during a phase-in period from 1992 to 1994. Unlike the three-day (two-component) FLEX,

USMLE is a three-step examination that consists of three two-day examinations, Step 1, Step 2, and Step 3. Each step is complementary to the other; no step can stand alone in the assessment of readiness for medical licensure. The clinical skills examination is a separately administered component of Step 2 and is referred to as Step 2 Clinical Skills, or Step 2 CS. Unlike the FLEX, which was taken upon or after graduation from medical school most applicants will take Step 1 and 2 of the USMLE during their medical school years. Step 3 will be taken after graduation.

2. USMLE Steps 1, 2 and 3 must be passed within a seven-year time period beginning when the examinee passes his or her first Step. The Board, at its discretion, may waive this requirement based on extraordinary circumstances. The Board encourages all applicants to take Step 3 of the USMLE as soon as possible following receipt of the M.D. or D.O. degree.

C. NBME or NBOME

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

D. EXAM COMBINATIONS

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

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

USMLE Step 1 <i>plus</i> USMLE Step 2 <i>plus</i> USMLE Step 3	
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**Amended September 13, 1997. Amended January 18, 2001. Amended February 18, 2003.  
Amended March 8, 2007. Amended May 17, 2007. Amended January 24, 2008. Amended  
July 1, 2009. Amended October 13, 2009. Amended March 19, 2015.**

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



## **Part 2605: Medical, Osteopathic and Podiatric Physicians**

### **Part 2605 Chapter 01: Licensure Requirements for the Practice of Allopathic and Osteopathic Physicians**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rule 1.23 Licensure Examinations. The Board recognizes four (4) separate and distinct examinations, to-wit: The examinations administered by the NBME, NBOME (COMLEX), FLEX and USMLE. The Board adopted the FLEX as a method of licensure by examination on March 8, 1973. Prior to this date, the Board administered a written examination and endorsed

licenses to practice medicine or osteopathic medicine obtained in most states by written examination. A separate discussion of each examination and this Board's requirements for the purpose of licensure is as follows:

A. FLEX

1. The Board adopted the FLEX as the method of licensure by examination on March 8, 1973. The last regular administration of the FLEX was December 1993. The Board will recognize FLEX as a valid medical licensing examination subject to all requirements heretofore and hereinafter set forth.
2. Prior to January 24, 1985, the FLEX examination was divided into three components:

Day I--Basic Science

Day II--Clinical Science

Day III--Clinical Competence

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

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

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

B. USMLE

1. The USMLE is a three-step examination for medical licensure in the United States and is sponsored by the FSMB and NBME. The Board adopted the USMLE as an additional method of licensure by examination on September 16, 1993. The USMLE replaced FLEX and the NBME certification examinations during a phase-in period from 1992 to 1994. Unlike the three-day (two-component) FLEX, USMLE is a three-step examination that consists of three two-day examinations, Step 1, Step 2, and Step 3. Each step is complementary to the other; no step can stand alone in the assessment of readiness for medical licensure. The clinical skills examination is a separately administered component of Step 2 and is referred to as

Step 2 Clinical Skills, or Step 2 CS. Unlike the FLEX, which was taken upon or after graduation from medical school most applicants will take Step 1 and 2 of the USMLE during their medical school years. Step 3 will be taken after graduation.

2. USMLE Steps 1, 2 and 3 must be passed within a seven-year time period beginning when the examinee passes his or her first Step. The Board, at its discretion, may waive this requirement based on extraordinary circumstances. The Board encourages all applicants to take Step 3 of the USMLE as soon as possible following receipt of the M.D. or D.O. degree.

C. NBME or NBOME

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

D. EXAM COMBINATIONS

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

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

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

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

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

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 937-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 3-20-2015	Name or number of rule(s): Part 2601 Chapters 1-7		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Board Administrative Code Part 2601 Chapter 1 is being amended for clarification and to include additional professions and definitions. Part 2601 Chapters 2, 3, 4, 6 and 7 are being deleted in their entirety in order to move to Part 2605. Part 2601 Chapter 5 is becoming Part 2601 Chapter 2. Specific legal authority authorizing the promulgation of rule: 73-43-11

List all rules repealed, amended, or suspended by the proposed rule: Part 2601 Chapters 1, 2, 3, 4, 5, 6, & 7

**ORAL PROCEEDING:**

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

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

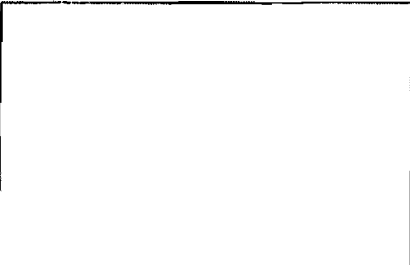
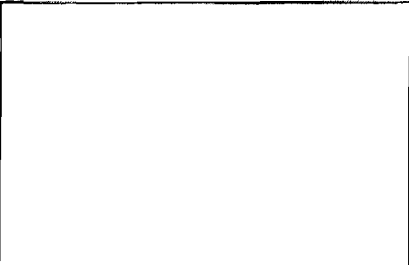
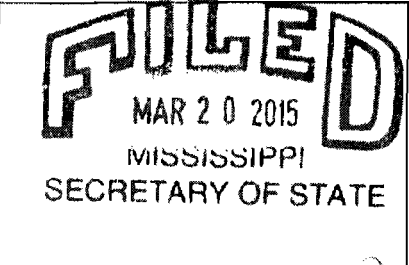
**ECONOMIC IMPACT STATEMENT:**

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

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	Action proposed: _____ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed final effective date: _____ 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: <u>1-21-15</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____

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

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

OFFICIAL FILING STAMP 	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP 	OFFICIAL FILING STAMP 
Accepted for filing by _____	Accepted for filing by _____	Accepted for filing by <i>[Signature]</i> #21106

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

## Part 2601: Professional Licensure

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

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

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

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

- A. “Board” means the Mississippi State Board of Medical Licensure.
- B. “Physician” means any person with a valid doctor of medicine, doctor of osteopathy or doctor of podiatry degree.
- C. “LCME” means the Liaison Committee on Medical Education, the organization recognized by the American Medical Association for accrediting American medical schools.
- D. “ACGME” means Accreditation Council of Graduate Medical Education.
- E. “RCPS” means Royal College of Physicians and Surgeons.
- F. “ABMS” means American Board of Medical Specialties.
- G. “AMA” means the American Medical Association.
- H. “FSMB” means the Federation of State Medical Boards.
- I. “FLEX” means the Federation Licensing Examination administered through the FSMB.
- J. “NBME” means National Board of Medical Examiners.
- K. “USMLE” means United States Medical Licensing Examination administered jointly through the FSMB and NBME.
- L. “SPEX” means the Special Purpose Examination administered through the FSMB.
- M. “NBOME” means the National Board of Osteopathic Medical Examiners.



- N. “COMLEX” means the Comprehensive Osteopathic Medical Licensing Examination administered through the NBOME.
- O. “COMVEX” means the Comprehensive Osteopathic Medical Variable-Purpose Examination administered through the NBOME.
- P. “AOA” means American Osteopathic Association.
- Q. “LMCC” means Licentiate of the Medical Council of Canada.
- R. “APMA” means American Podiatric Medical Association.
- S. “ABPM” means American Board of Podiatric Medicine.
- T. “ABPS” means American Board of Podiatric Surgery.
- U. “FPMB” means Federation of Podiatric Medical Boards.
- V. “CPME” means Council on Podiatric Medical Education.
- W. “NBPME” means National Board of Podiatric Medical Examiners.
- X. “APMLE” means American Podiatric Medical Licensing Examination administered through the NBPME.
- Y. “NPDB” means National Practitioner Data Bank.
- Z. “ECFMG” means the Education Commission for Foreign Medical Graduates.
- AA. “Foreign Medical School” means any medical college or college of osteopathic medicine located outside the United States, Canada or Puerto Rico.
- BB. “IMED” means International Medical Education Directory.
- CC. “Good Moral Character” as applied to an applicant, means that the applicant has not, prior to or during the pendency of an application to the Board, been guilty of any act, omission, condition or circumstance which would provide legal cause under Sections 73-25-29 or 73-25-83, Mississippi Code, for the suspension or revocation of medical licensure.

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

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

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

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

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

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

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

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

## **Part 2601 Chapter 2: Effect of Application**

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

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

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

Upon submission of an application for licensure to the Board, the applicant shall promptly provide all information deemed necessary by the Board to process the application, including, but not limited to certification of graduation from medical school, photograph of applicant, internship certification and birth certificate. The Board shall have a reasonable period of time within which to collect and assimilate all required documents and information necessary to issue a medical license. If, after submitting an application for medical license, an applicant has failed to respond or make a good faith effort to pursue licensure for a period of three (3) months, the application will be considered null and void, and applicant will have to reapply for licensure, including, but not limited to, all fees, application, and certifications. Additionally, if after one year from the date of receipt of application, applicant has not received a medical license, the application will be considered null and void, and applicant will have to reapply for licensure, including, but not limited to, all fees, application, and certifications. Under no circumstances will the one year time limit be waived.

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

**Amended March 19, 2015.**

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

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Board of Medical Licensure		CONTACT PERSON Rhonda Freeman	TELEPHONE NUMBER (601) 987-3079	
ADDRESS 1867 Crane Ridge Drive, Suite 200-B		CITY Jackson	STATE MS	ZIP 39216
EMAIL rhonda@msbml.ms.gov	SUBMIT DATE 3-20-2015	Name or number of rule(s): Part 2605 Chapters 1-5		

Short explanation of rule/amendment/pepeal and reason(s) for proposing rule/amendment/pepeal: Part 2605 is being created to incorporate Chapters 2, 3, 4, 6 and 7 of Part 2601. These Chapters have been updated to reflect current Board practices and requirements. Basic requirements and procedures are not being changed.

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/pepeal may be submitted to the filing agency.

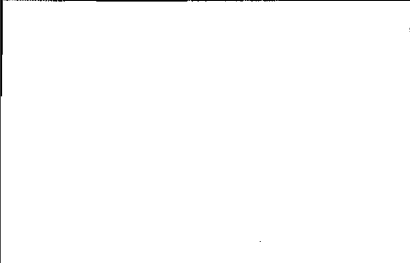
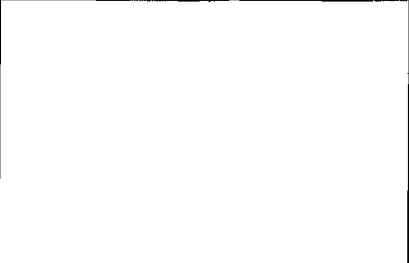
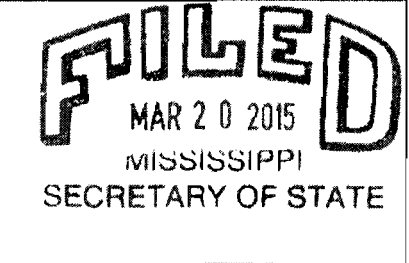
**ECONOMIC IMPACT STATEMENT:**

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

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: <u>1-21-15</u> Action taken: <input checked="" type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

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

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

OFFICIAL FILING STAMP  Accepted for filing by	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP  Accepted for filing by	OFFICIAL FILING STAMP  Accepted for filing by <i>JW</i> #21107
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

**Part 2605: Medical, Osteopathic and Podiatric Physicians**

**Part 2605 Chapter 01: Licensure Requirements for the Practice of Allopathic and Osteopathic Physicians**

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

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

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

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

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

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

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

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

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

2. Submits proof that the applicant's sole purpose for seeking licensure is to serve as the Dean, Chairman of the Department or Faculty of an ACGME or AOA approved training program. In such case, a license shall remain in effect so long as licensee is a member of the faculty of the ACGME or AOA approved training program.
- F. Submit certified copy of birth certificate or valid passport.
- G. Complete an application for medical license and submit it to the Board in a manner prescribed by the Board with a recent passport type photograph.
- H. Submit fee prescribed by the Board.
- I. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.

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

*Rule 1.2 Licensure Examinations.* The Board recognizes four (4) separate and distinct examinations, to-wit: The examinations administered by the NBME, NBOME (COMLEX), FLEX and USMLE. The Board adopted the FLEX as a method of licensure by examination on March 8, 1973. Prior to this date, the Board administered a written examination and endorsed licenses to practice medicine or osteopathic medicine obtained in most states by written examination. A separate discussion of each examination and this Board's requirements for the purpose of licensure is as follows:

A. FLEX

1. The Board adopted the FLEX as the method of licensure by examination on March 8, 1973. The last regular administration of the FLEX was December 1993. The Board will recognize FLEX as a valid medical licensing examination subject to all requirements heretofore and hereinafter set forth.
2. Prior to January 24, 1985, the FLEX examination was divided into three components:

Day I--Basic Science

Day II--Clinical Science

Day III--Clinical Competence

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

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

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

B. USMLE

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

C. NBME or NBOME

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

D. EXAM COMBINATIONS

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



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

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

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

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

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

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

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

- A. Applicant must be twenty-one (21) years of age, and of good moral character.
- B. Applicant must have had at least four (4) years high school and be graduate of same; he or she shall have at least one (1) year pre-podiatry college education.
- C. Present a diploma from a college of podiatric medicine recognized by the Board as being in good standing, subject to the following conditions.

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

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

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

### **Part 2605 Chapter 3: Temporary Licensure**

#### *Rule 3.1 Temporary Licensure.*

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

license shall remain valid only for a period of time sufficient for applicant to submit required documents and credentials to complete an application for permanent licensure, but in no instance to exceed 30 days.

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

liquors or narcotic drugs, or any other drug having addiction-forming or addiction-sustaining liability, may be granted a temporary license pursuant to this rule provided the temporary license is not in conflict with the prior disciplinary order of the Board rendered against the physician.

4. The applicant applying for a ninety (90) day temporary license to practice while in treatment in an approved drug and/or alcohol treatment program or while enrolled in the fellowship of addictionology shall pay a fee prescribed by the Board (not to exceed \$50.00) to the Board. No additional fee shall be charged for an extension.

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

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

*Rule 3.2 Limited Institutional Licensure.*

- A. Pursuant to Section 73-25-23, Mississippi Code, a limited institutional license is available only to graduates of foreign medical schools who are employed or are being considered for employment to practice medicine in one or more Mississippi state-supported institutions located in the same county.
- B. It is understood that graduates of foreign medical schools holding a limited institutional license, and who are employed by and enrolled in an approved ACGME or AOA postgraduate training program at the University of Mississippi Medical Center, shall be authorized to participate in any postgraduate educational program at the University of Mississippi Medical Center, or any of its affiliated training program sites.
- C. An application for limited institutional licensure may be accepted by the Board only upon the written request of the state-supported institution which has employed or is considering employing a graduate of a foreign medical school to practice medicine.
- D. A limited institutional license may be issued for a period of one (1) year for practice in a particular institution after a review and favorable recommendations by a majority of the following:
  1. President or Secretary, Board of Trustees of Institution
  2. Director of Institution
  3. President or Secretary, Local Chartered Medical Society in area in which institution is located
  4. Member, Board of Trustees, Mississippi State Medical Association in area in which institution is located
  5. Member, Mississippi State Board of Medical Licensure from district in which institution is located
  6. Executive Officer, Mississippi State Board of Medical Licensure

- E. In addition to the above requirements for a limited institutional license, an applicant shall meet the following requirements:
  - 1. Must be at least twenty-one (21) years of age and of good moral character.
  - 2. Must submit copy of diploma and certification of completion from a reputable medical college or reputable college of osteopathic medicine.
  - 3. Must submit certified copy of valid certificate from the ECFMG or its successor.
  - 4. Must submit an application completed in every detail with recent passport type photograph.
  - 5. Must submit fee prescribed by the Board.
  - 6. Must appear for a personal interview in the office of the Board, submit for a criminal background check and successfully pass the Jurisprudence Examination as administered by the Board.
- F. Pursuant to Section 73-25-23, Mississippi Code, a limited institutional license must be renewed annually, after such review as the Board considers necessary. The limited institutional licenses of graduates of foreign medical schools so licensed and employed by a state institution on and after July 1, 1983, shall be renewable annually based upon the favorable recommendation of the director of the institution by which the licensee is employed. A graduate of a foreign medical school so licensed may hold such limited institutional license no longer than five (5) years.
- G. Since a limited institutional license is issued to a graduate of a foreign medical school for employment to practice medicine in a particular Mississippi state-supported institution, or institutions located in the same county, such limited institutional license shall become void immediately upon termination of employment of the licensee at the institution, or institutions, at which practice is authorized under the license.
- H. An annual renewal fee shall be prescribed by the Board.

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

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

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

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

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

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

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

*Rule 3.4 Short-Term Training for Out-of-State Physicians.* The Board is aware that there are Mississippi physicians assisting out-of-state physicians in expanding professional knowledge and expertise by offering short-term training to the out-of-state physician. The Mississippi physician wishing to offer this training to the unlicensed out-of-state physician(s) must have their short-term training program approved by the Board.

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

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

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

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

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

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

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

#### **Part 2605 Chapter 4: Expedited Licensure**

##### *Rule 4.1 Military Applicants.*

- A. Pursuant to MS Code Ann. Section 73-50-1, the Board of Medical Licensure is authorized to issue an expedited license to a military-trained applicant to allow the applicant to lawfully practice medicine in Mississippi. In order to receive the expedited license, the following requirements must be satisfied:
  1. Complete an application for medical license and submit it to the Board in the manner prescribed by the Board with a recent passport type photograph.
  2. Submit documentation that applicant has been awarded a military occupational specialty.
  3. Submit documentation of completion of a military program of training.
  4. Submit verification of a completed licensing examination as described in Rule 2.3.
  5. Have two references submit letters regarding applicant's performance in the practice of medicine.
  6. Submit verification that at least two of the past five years preceding the date of submission of the application applicant has engaged in the active practice of medicine.
  7. Submit certification that applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice medicine in Mississippi at the time the act was committed.
  8. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.
  9. Submit licensure fee prescribed by the Board.
- B. Pursuant to MS Code Ann. Section 73-50-1, the Board of Medical Licensure is authorized to issue a license to a military spouse to allow the military spouse to lawfully practice medicine in Mississippi. In order to receive the expedited license, the following requirements must be satisfied:
  1. Complete an application for medical license and submit it to the Board in the manner prescribed by the Board with a recent passport type photograph.
  2. Submit certification of a current license from another jurisdiction, in which that jurisdiction's requirements for licensure are substantially equivalent to or exceed the

- requirements for licensure of the Board.
3. Submit verification that at least two of the past five years preceding the date of submission of the application applicant has engaged in the active practice of medicine.
  4. Submit certification that applicant has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice medicine in Mississippi at the time the act was committed.
  5. Submit verification that applicant is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license.
  6. Submit licensure fee prescribed by the Board.
  7. Appear for a personal interview in the office of the Board, successfully pass the Jurisprudence Examination as administered by the Board, and submit for a criminal background check.
- C. All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in the practice of medicine as required under subsection A or B of this section.
- D. A nonresident licensed under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed by the Board.
- E. The Board may issue a temporary practice permit to a military-trained applicant or military spouse licensed in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection A or B of this section if that jurisdiction has licensure standards substantially equivalent to the standards for licensure of the Board. The military-trained applicant or military spouse may practice under the temporary permit until a license is granted or until a notice to deny a license is issued in accordance with rules adopted by the Board.

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

**Adopted July 10, 2014.**

## **Part 2605 Chapter 5: The Practice by Unlicensed Nonresident Physicians**

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

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

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



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

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

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

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

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

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

*Rule 5.4 Intent.* It is the intent and purpose of this regulation to encourage Mississippi licensed physicians to utilize the services of competent and well trained non-resident unlicensed physicians on an as needed basis. However, where it is anticipated that the services of the non-resident physicians will be utilized on a routine basis, that is, where the non-resident physicians services will be utilized more than twice during any one year period of time, permanent licensure shall be required.

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

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

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

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

**Amended October 19, 2002.**

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