

Title 30: Professions and Occupations

Part 2640: Prescribing, Administering and Dispensing

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

Rule 1.1 Scope. These rules apply to all individuals who have prescriptive authority and are licensed by the Mississippi State Board of Medical Licensure.

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

Rule 1.2 Definitions.

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

A. **Administer**, **Controlled Substances**, and **Ultimate User** shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.

B. **Board** means the Mississippi State Board of Medical Licensure.

C. **Physician** means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

D. **Physician Assistant** means any person meeting the requirements of licensure in the state of Mississippi as required by Part 2617, Chapter 1.

E. **Licensee** means any person licensed by this Board who has prescriptive authority.

F. **Prescriptive Authority** means the legal authority of a professional licensed to practice medicine in the state of Mississippi to prescribe, administer, or dispense legend drugs. Licensees holding or possessing certain license types and training, such as Medical Doctors (MD) and Doctors of Osteopathic Medicine (DO) for example, are conferred prescriptive authority by virtue of their training and licensure by the board.

G. **Prescribe** means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.

H. **Dispense** means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

I. For the purpose of enforcement of the labeling requirements set forth in this chapter, Part 2640, Rule 1.7.B, **Dispensing Physician** means any physician who dispenses to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased

by the physician for resale to a patient whether or not a separate charge is made. As stated in Part 2615, it is understood that Physician Assistants may not dispense medications.

J. ***Prescription Drug*** or ***Legend Drug*** means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; “Caution: Federal law prohibits dispensing without prescription,” or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by licensees only.

K. ***Pain Management Practice*** means a public or privately-owned practice for which 50% or more of the patients are issued, on a regular or recurring basis, a prescription for opioids, barbiturates, benzodiazepines, carisoprodol, butalbital compounds, or tramadol for the treatment of chronic non-cancerous/non-terminal pain. Included in this definition is any practice that advertises and/or holds itself out to provide pain management services. Patients who are treated for pain resulting from a terminal illness do not count against the percentage stated herein.

L. ***Inpatient*** means a patient in a hospital, nursing home, long term care facility, inpatient (not home-bound) hospice, or any other facility wherein medications are dispensed to a patient by a third party who is duly licensed and/or certified to dispense medications in a healthcare or related facility.

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

Rule 1.3 Registration for Controlled Substances Certificate. Every licensee who prescribes, administers or dispenses any controlled substance within Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.

Each individual who is licensed by the Mississippi State Board of Medical Licensure and has prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP). Every licensee who provides medical care in a pain management practice as defined in Rule 1.2 (K) must review the MPMP at each patient encounter in which a prescription for a controlled substance is issued. Every licensee, regardless of practice specialty, must review the MPMP at each patient encounter in which an opioid is prescribed for acute and/or chronic non-cancerous/non-terminal pain. Those licensees whose practice is not a pain management practice as defined previously must actively utilize the MPMP upon initial contact with new patients and at least every three (3) months thereafter on any and all patients who are prescribed, administered, or dispensed controlled substances other than opioids. Licensees who issue a prescription for Lomotil, Lyrica, Testosterone, Pseudoephedrine, or Amphetamines prescribed to pediatric patients under the age of sixteen (16) for the treatment of ADHD, are not required in that instance to utilize the MPMP as stated herein.

Reports generated on such patients should span the length of time from the previous review of the MPMP so that adequate information is obtained to determine patient compliance with treatment. Documentation, such as a copy of the report itself and/or reflection in the chart dictation and/or

notes, must be kept within the patient's record and made available for inspection upon request. As allowed by the Mississippi Board of Pharmacy and the MPMP, properly registered designees of the licensee may run/obtain the report for the licensee's review as required herein.

Utilization of the MPMP as stated herein is not required when treating inpatient; however, upon discharge from said inpatient setting with a prescription for a controlled substance, the MPMP must be reviewed as required herein.

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

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

The registration requirement set forth in these rules does not apply to the distribution and manufacture of controlled substances. Any licensee who engages in the manufacture or distribution of controlled substances or legend drugs must register with the Mississippi State Board of Pharmacy pursuant to Mississippi Code, Section 73-21-105 and will be subject to all applicable federal statutes and regulations controlling such practices. For the purposes herein, "distribute" means the delivery of a drug other than by administering, prescribing or dispensing. The word "manufacture" has the same meaning as set forth in Mississippi Code, Section 41-29-105(q).

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

Rule 1.4 Maintenance of Records and Inventories. Every licensee shall maintain inventories, logs, and records prescribed in this rule.

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

B. Controlled substances dispensation/administration record. Every licensee who dispenses or administers, Schedules II, IIN, III, IIN, IV and V controlled substances must maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement does not apply to Schedules III, IIN, IV and V prepackaged samples and starter packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIN, IV and V controlled substances. The record must contain the following information:

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

Controlled substances dispensation/administration records must also meet all applicable federal statutes and regulations.

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

Licensees must not prescribe, administer or dispense any legend drug; any controlled substance; or any drug having addiction-forming or addiction-sustaining liability without a good faith prior examination and medical indication. A determination as to whether a "good faith prior examination and medical indication" exists depends upon the facts and circumstances in each case. One of the primary roles of a physician is to elicit detailed information about the signs and symptoms which a patient presents in order that he or she may recommend a course of treatment to relieve the symptoms and cure the patient of his or her ailment or maintain him or her in an apparent state of good health. In order for a licensee to achieve a reasonable diagnosis and treatment plan, a history and physical examination consistent with the nature of the complaint are necessary. The importance of these aspects of proper medical practice cannot be over emphasized. The paramount importance of a complete medical history in establishing a correct diagnosis is well established. Standards of proper medical practice require that, upon any encounter with a patient, in order to establish proper diagnosis and regimen of treatment, a licensee must take three steps: (a) take and record an appropriate medical history, (b) carry out an appropriate physical examination, and (c)

record the results. The observance of these principles is an integral component of the “course of legitimate professional practice.”

Some of the factors used in determining the presence or absence of “good faith” may include, but are not limited to:

1. the quality and extent of the documented history and physical exam, which may also be accomplished through appropriate telemedicine as defined in Part 2635 Rule 5.5;
2. the extent to which the prescribed therapy is supported by documented history and physical exam;
3. the licensee's permitting the patient to name the drug desired;
4. a licensee dispensing or prescribing drugs to patients having no medical need, when the licensee knew or should have known that the patients were addicts or abusing/misusing substances;
5. repeated refills over relatively short periods of time or the issuance of prescriptions at a time when the patient should not have been finished taking the same medication from a prior prescription had the prescription directions been properly followed or the correct dosage taken;
6. general remarks of the licensee indicating his or her experience with non-therapeutic uses of the drug;
7. a licensee prescribing contraindicated medication such as amphetamines and depressants in a manner which results in therapeutic conflicts.

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

A determination of proper “medical indication” requires examination of the nature of the therapy and all circumstances surrounding its implementation. Use of any therapy should be supported by

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

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

The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these rules must be maintained in the office of the licensee for a period of seven (7) years from the date that the record is completed or the controlled substances, legend drugs or other medications are prescribed, administered or dispensed and must be made available for inspection by representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125. Record retention for Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record must also meet all applicable federal statutes and regulations.

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

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

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

Rule 1.5 Use of Diet Medication.

Pursuant to Mississippi Code, Section 41-29-139(e), it is unlawful for any licensee to prescribe, dispense or administer any medication classified as Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control, or weight loss.

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

The licensee providing comprehensive treatment of obesity must be present at the facility when he or she prescribes or dispenses¹ controlled substances for the purpose of weight reduction or the treatment of obesity. A licensee may administer, order, dispense or prescribe controlled substances for the purpose of weight loss or the treatment of obesity only as an adjunct to a clearly documented comprehensive program of behavior modification, comprehensive nutritional education, and exercise or physical therapy intervention. The licensee must comply with all of the following conditions:

A. An initial comprehensive evaluation is to be conducted by and thoroughly recorded by the prescribing licensee prior to the prescribing, ordering, dispensing or administering of any drug. Such evaluation should include a thorough history and thorough physical exam of the patient to include at a minimum:

1. Past medical history, past surgical history, social history, family history, weight history, dietary history, gynecological history, review of systems, allergies and medications.
2. A physical exam to include height; weight; blood pressure; pulse; % body fat or waist circumference/weight hip ratio; lungs; heart; abdomen; and extremities.
3. Appropriate testing related to medical weight loss (CBC, comprehensive metabolic profile, lipid panel, thyroid panel, EKG, if prior or present history of cardiac disease, hypertension, diabetes, dyslipidemia, or strong family history of cardiac disease age >60)
4. The licensee must determine and record the patient's Body Mass Index ("BMI"). No patient should receive anorexic medications unless the patient has (i) a BMI of ≥ 30.0 in a normal otherwise healthy patient, or (ii) a BMI ≥ 27.0 in an individual with at least one associated co-morbidity, or (iii) current body weight ≥ 120 percent of a well-documented, long standing healthy weight that the patient maintained after the age of 18, or (iv) body fat $\geq 30\%$ in females, or body fat $\geq 25\%$ in males, or (v)–waist-hip circumference such that the individual is known to be at increased cardiovascular and/or co-morbidity risk because of abdominal visceral fat, or presence of a co-morbidity condition or conditions aggravated by the patients excessive adiposity. The indication for anorexic therapy must be documented in the record and re-evaluated at each visit or with each prescription refill.

¹ Part 2640, Rule 1.9, controls in all cases. Physician assistants are not permitted to dispense medication.

5. Absolute contraindications of Schedule III or IV anorectic drugs for purposes of weight loss management are pregnancy, breast feeding, or severe allergic reactions to these medications. Relative contraindications of Schedule III and IV anorectics for the purpose of weight loss management are uncontrolled bipolar, uncontrolled epilepsy, uncontrolled hypertension, episodic tachyarrhythmia, excessive stimulation, history of substance abuse, severe anticholinergic effects, such as, extreme dryness of mouth or unmanageable constipation should be addressed with licensee prior to starting weight loss medications. Schedule III and IV anorectics can be used in conjunction with any other medications deemed safe by the licensee.
- B. The licensee must not utilize any Schedules III, IV or V controlled substance when he or she knows or has reason to believe an absolute contraindication exists or relative contraindication exists that would be harmful to the patient.
- C. A licensee is not permitted to prescribe, order, or dispense controlled substances for the purpose of weight reduction or treatment of obesity greater than a 30-day supply. Exempted from this requirement are those licensees defined in Rule 1.2(M) and those licensees treating patients resulting from a referral to those licensees defined in Rule 1.2(M).
- D. A patient continued on a controlled substance for the purpose of weight reduction or the treatment of obesity must undergo an in-person re-evaluation once every 30 days; however, those licensees defined in Rule 1.2(M) may re-evaluate patients once every 90 days. A recording of weight, BMI, blood pressure, pulse, and/or any other test which may be necessary for monitoring potential adverse effects of drug therapy should be completed at each visit. Once medically established goals have been met for an individual patient, the need for ongoing medication should be re-evaluated and documented in the record.
- E. Continuation of the prescribing, ordering, dispensing, or administering of controlled substances should occur only if the patient has continued progress toward achieving or maintaining medically established goals and has no significant adverse effects from the medication.
- F. A licensee must not utilize a schedule III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

Off-label use of any medication that does not have Food and Drug Administration approval for use in the treatment of weight loss is prohibited if administered solely for the purpose of weight loss. Thyroid hormone, diuretics, vitamin B12, B1, B2, B6, methionine, choline, inositol, chromium picolate, and human chorionic gonadotropin are examples of medications that may not be used in this manner. This prohibition does not apply to FDA categories of nutritional supplements sold without prescription.

Licensees may request the Board waive the FDA requirements set forth in Rule 1.5(F) on a per-medication or class of medications basis, for good cause. Temporary waiver may be approved by the Executive Director until the request can be heard before the Board.

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

Rule 1.6 | Bariatric Medicine, Medical Weight Loss, or Weight Management Practice

REPEALED. Effective 4/16/24.

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

The following rules are not intended to supersede or exempt licensees from the requirements heretofore stated in Rule 1.4 *Maintenance of Records and Inventories*.

A. Definitions

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

1. “Chronic Pain” is a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts including, but not limited to, evaluation by the attending licensee and one or more licensee specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain. Further, if a patient is receiving controlled substances for the treatment of pain for a prolonged period of time (more than three months), then they will be considered for the purposes of this regulation to have “de facto” chronic pain and subject to the same requirements of this regulation. “Terminal Disease Pain” should not be confused with “Chronic Pain.”
2. “Terminal Disease Pain” is pain arising from a medical condition for which there is no possible cure and the patient is expected to live no more than six (6) months.
3. “Acute Pain” is the normal, predicted physiological response to an adverse chemical, thermal, or mechanical stimulus and is associated with surgery, trauma and acute illness. Acute pain is generally self-limited and is responsive to therapies, including controlled substances.
4. “Addiction” is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects and is characterized by compulsive use despite harm.
5. “Physical Dependence” is a physiological state of neuroadaptation to substance which is characterized by the emergence of a withdrawal syndrome if the use of the substance is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by re-administration of the substance.
6. “Substance Abuse” is the use of any substance for non-therapeutic purposes; or use of medication for purposes other than those for which it is prescribed.

7. “Tolerance” is a physiological state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Tolerance occurs to different degrees for various drug effects, including sedation, analgesia and constipation. Analgesic tolerance is the need to increase the dose of opioid to achieve the same level of analgesia.
- B. A licensee may order, prescribe, administer, or dispense controlled substances, or other drugs having addiction-forming and addiction-sustaining liability to a person for the treatment of chronic pain.
- C. The ordering, prescribing, administration, or dispensation of controlled substances, or other drugs having addiction-forming or addiction-sustaining liability for the treatment of chronic pain should be done with caution. A licensee may order, administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:
 1. Before initiating treatment with a controlled substance, or any other drug having addiction-forming or addiction-sustaining liability, the licensee must conduct a risk/benefit analysis by reviewing records of prior treatment. The risk/benefit analysis should weigh in favor of treatment and indicate the need for controlled substance therapy. Such a determination must take into account the specifics of each patient’s diagnosis, past treatments, suitability for long-term controlled substance, with the need for other treatment modalities. The results of this analysis must be clearly entered into the patient medical record and must include supporting documentation such as consultation or referral reports and efforts to determine the underlying etiology of the chronic pain.
 2. Documentation in the patient record must include a complete medical history and physical examination and supporting studies and reports of consultation.
 3. The diagnosis must demonstrate the presence of one or more recognized medical indications for the use of controlled substances.
 4. Documentation of a written treatment plan which must contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan must contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. The consent must also include specific requirements of the patient, such as using one licensee and pharmacy, urine/serum medication level monitoring when requested, pill counts, and the grounds for which the treatment may be terminated (e.g., ‘doctor shopping’ behavior, adverse urine/serum screens, etc.).
 5. Periodic review and documentation of the treatment course is conducted no less frequently than every 3 months. The licensee’s evaluation of progress toward the stated treatment objectives

must support all changes in therapy. This should include referrals and consultations as necessary to achieve those objectives.

- D. No licensee shall order, administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is non-therapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.
- E. No licensee shall order, administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating licensee's directions. These circumstances include those patients obtaining controlled substances or other drugs having addiction-forming and addiction-sustaining liability from more than one licensee or healthcare provider and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other drug having addiction-forming and addiction-sustaining liability before a prior prescription should have been consumed according to the treating licensee's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose due to an acute exacerbation if the treating licensee documents that the escalation was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan must be undertaken by the licensee.
- F. No licensee shall order, prescribe, administer, or dispense any controlled substance or other drug having addiction-forming or addiction-sustaining liability for the purpose of "detoxification treatment" or "maintenance treatment" and no licensee shall order, prescribe, administer, or dispense any narcotic controlled substance for the purpose of "detoxification treatment" or "maintenance treatment" unless the licensee is registered in accordance with Section 21 U.S.C. 823(g). Nothing in this paragraph shall prohibit a licensee from administering narcotic drugs to a person for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral for treatment. Nothing in this paragraph shall prohibit a licensee from ordering, prescribing, administering, or dispensing controlled substances in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction.
- G. When initiating opioid therapy for chronic pain, the licensee must first run a MPMP on the patient. The licensee must prescribe the lowest effective dosage. While there is no single dosage threshold identified below which the risk of overdose is eliminated, licensees must strive to keep daily opioid doses less than or equal to 50 mg of morphine equivalence (mEq), as dosages larger than 50 mEq per day increases risk without adding benefits for pain control or function. Licensees must avoid dosages greater than or equal to 90 mg of

morphine equivalence per day and must provide significant justification for exceeding the 90 mg ceiling stated herein. If the licensee determines that a patient requires greater than 100 mg of morphine equivalence per day, the licensee must refer the patient to a pain specialist for further treatment.

- H. When opioids are prescribed for acute pain, the licensee must prescribe the lowest effective dose of immediate release opioids, as the use of long acting opioids for acute non-cancer/non-terminal pain is prohibited. Licensees must prescribe no greater quantity than needed for the expected duration of pain severe enough to require opioids. Licensees are discouraged from prescribing or dispensing more than a three (3) day supply of opioids for acute non-cancer/non-terminal pain, and must not provide greater than a ten (10) day supply for acute non-cancer/non-terminal pain. Licensees may issue an additional ten (10) day supply if clinically necessary, but said supply must be issued in accordance with Title 21 CFR § 1306.12 *Refilling prescriptions; issuance of multiple prescriptions* (i.e., the prescription must be dated on the date of issuance with ‘do not fill until’ noting the date the prescription may be filled), and such need for an additional ten (10) day supply must be documented in the chart to evidence that no other alternative was appropriate or sufficient to abate the acute pain associated with that medical condition. Additional ten (10) day supplies, with one (1) refill, may be issued if deemed medically necessary and only if supported by additional clinical evaluation.
- I. As stated in Rule 1.3, every licensee must review an MPMP report at each patient encounter in which a Schedule II medication is prescribed for acute pain or chronic non-cancer/non-terminal pain. MPMP reports may be obtained by designees of the licensee as allowed by the MPMP program.
- J. When prescribing opioids for either chronic or acute pain, it is a relative contraindication (black box warning) to prescribe opioids concurrently with Benzodiazepines and/or Soma. However, opioids and benzodiazepines may be prescribed concurrently on a very short term basis, and in accordance with section H of this rule, when an acute injury requiring opioids occurs. The need for such concurrent prescribing must be documented appropriately in the chart. Patients who are currently on an established regimen of concomitant opioids and benzodiazepines may be allotted a reasonable period of time to withdraw from one or both substances. Caution and care should be taken to prescribe the lowest effective dose of each medication if unable to discontinue one or the other completely. Clinicians involved in managing a patient’s care should document communication regarding the patient’s needs, goals, risks and coordination of care. Prescribing of opioids concurrently with benzodiazepines and/or Soma may be allowed only under very limited circumstances in which the combination is used to treat very specific chronic medical conditions for which there is no other treatment modality available.
- K. When a licensee treats chronic non-cancerous/non-terminal pain and/or psychiatric conditions outside the definition of a pain management practice (Rule 1.2) (K) the licensee

must actively utilize the MPMP upon initial contact with a new patient and every 3 months thereafter on any and all patients who are prescribed, administered, or dispensed controlled substances. Reports generated on patients must span the length of time from the previous review of the MPMP so that adequate information is obtained to determine the patient's compliance for and with treatment. Documentation, such as a copy of the report itself and/or reflections in the charts dictation and/or notes must be kept within the patient's record and made available for inspection upon request.

- L. In-office drug testing must be done at least three (3) times per calendar year when Schedule II medication is written for the treatment of chronic non-cancer/non-terminal pain. In-office drug testing and MPMP review, as described in Rule 1.7 (K), must be done at least three (3) times per calendar year for patients prescribed benzodiazepines for chronic medical and/or psychiatric conditions which are non-cancer/non-terminal. In-office drug testing must test, at a minimum, for opioids, benzodiazepines, amphetamines, cocaine, and cannabis. Inpatient treatment, as defined in Rule 1.2(L), is exempt from this requirement. Further, all hospice treatment is exempt from in-office drug testing requirements stated herein.
- M. The use of Methadone to treat acute non-cancer/non-terminal pain is prohibited. The use of Methadone for the treatment of chronic non-cancer/non-terminal pain is permissible within a registered Pain Management Practice, as defined in Rule 1.2(K), or when resulting from a referral to a certified pain specialist. If Methadone is prescribed to treat chronic non-cancer/non-terminal pain, the initial prescription must be written by a physician.

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

Rule 1.8 Drug Maintenance Requirements. All medications maintained or stored in licensee's office must be maintained or stored in the manufacturer's or re-packager's original container. The label of any container in which drugs are maintained must bear the drug name, strength, the manufacturer's control lot number and the expiration date. Drugs that are pre-counted and prepackaged for purposes of dispensing must be identifiable as to expiration date and manufacturer's control lot number. The containers in which drug products are maintained must not be labeled in any false or misleading manner. The labeling requirements of this rule are in addition to all other applicable state and federal statutes and regulations.

A physician must not dispense out-of-date medications. Out-of-date medications must be promptly removed from current stock and stored separately until proper disposal. A physician, when dispensing a product in a manufacturer's original package or container must dispense the product with this information intact.

The medication storage and dispensing areas must be maintained in a sanitary fashion. All medications must be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

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

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

Rule 1.9 Requirements for Dispensing Physicians.

For the purposes of this rule, a “dispensing physician” means any physician who dispenses to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.

Prepackaged samples or starter packs in their original packages or containers need only have the patient name, date distributed, and physician’s name if the manufacturer’s packaging meets other requirements.

Physicians who wish to dispense must register with the Board. To obtain a certificate to dispense medications, a physician must first obtain ten (10) hours of Category 1 AMA or AOA approved CME in the area of Pharmacology and/or Dispensing of Medication.

After obtaining a certificate from the Board, the physician is then required to register with the Mississippi Board of Pharmacy and obtain the requisite permit(s) to dispense medications. The physician shall be subject to routine inspections by agents and representatives of the Board of Pharmacy, and they shall be subject to all regulations set forth by the Board of Pharmacy regarding the proper handling, labeling, and dispensing of medications.

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

A single physician dispenser may not share or otherwise allow other practitioners to utilize medications or inventory ordered under his or her authority. Proper transference of medications may take place pursuant to regulations set forth by the Pharmacy Board. Refills of medications may not be issued without a follow-up visit with the physician.

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

Rule 1.10 Prescription Guidelines–Controlled Substances. It is the responsibility of the licensee to determine the type, dosage, form, frequency of application and number of refills of any controlled substances prescribed to a patient. The following requirements apply to all prescriptions for controlled substances written by a licensee with controlled substance prescriptive authority:

A. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.

B. On all prescriptions of controlled substances wherein refills are permitted, licensees must indicate the appropriate refills, not to exceed five (5), or mark “none.”

C. Each licensee must insure that the complete name and address of the patient to whom the licensee is prescribing the controlled substance appears on the prescription.

D. A licensee must not permit any prescription for controlled substances to be signed by anyone in the place of or on behalf of the licensee.

E. A licensee must not pre-sign prescription pads or order forms.

F. A licensee must not utilize prescription pads or order forms upon which the signature of the licensee has been affixed by any means other than manual signature. This prohibition includes the e-mailing of any controlled substance prescription. A hard copy prescription generated from an electronic prescription system must contain a manual signature unless: (i) the prescription is printed on security paper that ensures it is not subject to copying or alteration, and (ii) an electronic or digital signature is affixed. Electronic transmission of Schedule III-V controlled substance prescription information is limited to computer to facsimile (fax) transmissions or traditional fax to fax transmissions. Electronic transmission of Schedule II controlled substance prescription information is permitted under limited circumstances. Requirements for fax prescription orders and systems utilized for faxing prescriptions are as follows:

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

In addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions must be established and maintained. Such a logbook would serve to protect the prescribing licensee in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook must include the patient’s name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and a personal identifier of the person faxing the prescription. Such logs must be maintained in the licensee’s clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this rule are in addition to documentation required in Part 2640, Rule 1.4.

2. . When prescribing any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the licensee or the licensee's agent to the dispensing pharmacy by facsimile. The licensee or the licensee's agent must note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will be prepared and maintained in the same manner as described in Part 2640, Rule 1.10.F.1.

3. . When prescribing any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the licensee or the licensee's agent to the dispensing pharmacy by facsimile. The licensee or the licensee's agent must note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Part 2640, Rule 1.10.F.1.

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

H. Prescriptions for Benzodiazepines must be limited to a one (1) month supply, with no more than two (2) refills, or a ninety (90) day supply with no refills. The MPMP must be checked each time a prescription for benzodiazepines is authorized and evidence of such check must be noted within the patient file.

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

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

A. Prescriptions may not be written outside of a valid licensee-patient relationship. While not all of the elements in subsection A are necessary each time a prescription is authorized (e.g., via appropriate telemedicine as defined in Rule 5.5 of Part 2635, calling in refills, taking call for a practice partner for short term care, etc.), all initial encounters, and at reasonable intervals thereafter, should conform to this rule and be done pursuant to a valid licensee-patient relationship. The elements of this valid relationship are:

1. . verify that the person requesting the medical treatment is in fact who they claim to be;
2. . conducting an appropriate history and physical examination of the patient that meets the applicable standard of care, which as previously stated may also be accomplished through appropriate telemedicine as defined in Part 2635 Rule 5.5;
3. . establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
4. . discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;
5. . insuring the availability of appropriate follow-up care; and
6. . maintaining a complete medical record available to patient and other treating health care providers.

B. Electronic prescription transmission is permitted provided the transmission meets applicable state and federal standards for transmission. E-prescribing is the electronic entry of a prescription by a licensee, the secure electronic transmission of the prescription to a pharmacy, the receipt of

an electronic message by the pharmacy and E-prescription renewal requests sent electronically by the pharmacy to the practitioner.

C. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the licensee. This does not prohibit the transmission of electronic prescriptions and telefaxed prescriptions (but not e-mail) for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed or electronic prescriptions must be authorized by a written or electronic signature and must be issued in accordance with all other provisions of this rule. No prescriptions for any form or compound containing nalbuphine HCl, carisoprodol, butalbital compounds, or tramadol HCl shall be telefaxed.

D. Electronic prescriptions for controlled substances are permitted if a practitioner has complied with the DEA requirements and is using a certified electronic prescribing system for the transmission of control substances prescriptions.

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

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

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

G. Every written prescription issued by a licensee, bearing more than one non-controlled medication, must clearly indicate the intended refill instructions for each medication. Lack of clearly indicated refill instructions prohibit the refilling of the medications. All unused lines on a multi-line prescription blank must be clearly voided by the issuing licensee.

H. A prescription will no longer be valid after the occurrence of any one of the following events:

1. Thirty (30) days after the death of the issuing licensee.
2. Thirty (30) days after the issuing licensee has moved or otherwise changed practice location resulting in termination of the licensee patient relationship. Termination of the licensee patient relationship results when a patient is no longer able to seek personal consultation or treatment from the issuing licensee.
3. Immediately after loss of DEA Controlled Substances Privilege by the issuing licensee if the prescription is for controlled substances.
4. Immediately upon revocation, suspension or surrender of the licensee's license.

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

Rule 1.12 Freedom of Choice. A licensee must not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier.

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

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

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

Rule 1.13 Security of Controlled Substances. In all clinics or offices within the control of a licensee, all controlled substances and other drugs having addiction-forming or addiction-sustaining liability must be maintained in such a manner as to deter loss by theft or burglary. All controlled substances must be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area. When a licensee detects a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances. The Board has the authority to order implementation measures to improve security over controlled substances.

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

Rule 1.14 Pain Management Medical Practice.

- A. A pain management medical practice must have, at all times, a majority ownership (more than 50%) by a physician or group of physicians licensed by the Board, and/or a hospital or health care entity registered with the Secretary of State to do business in the state of Mississippi. The physician or physician owners must practice an annual average of at least 20 hours per week within the state of Mississippi.
 - B. Any physician who is practicing, or intends to practice, in a pain management medical practice must register with the Board.
 - C. Each physician owner of a pain management medical practice must meet the requirements set forth below.
 - D. Each licensee who serves as medical director, manager, or employee or who provides care in a pain management medical practice must meet the requirements set forth below.
- A physician owner of a pain management medical practice, as defined in R.1.2, must:
- 1. maintain documents demonstrating proof of ownership or alternative documents with a written request for special consideration;
 - 2. maintain ownership or investment interest information in any other pain management facility operating within the state of Mississippi that includes the name and address of the other pain management facility(ies) in which the physician has ownership or vested interest;
 - 3. maintain documentation which identifies all individuals with prescriptive authority who are employed or contracted in any capacity at each facility; and
 - 4. in addition to requirements set forth in section N of this rule, provide any documentation requested by the Board or its agents related to these requirements.
- E. All physician owners and operators are required to register with the Board. Each practice shall be entered into the physician's online licensure gateway.
 - F. Physician owners or operators may not operate a pain management practice in Mississippi unless the practice is owned or operated by a hospital or healthcare entity registered with the Secretary of State to do business in the state of Mississippi, or by a physician who:
 - 1. practices at least 20 hours per week providing direct patient care; and
 - 2. holds an active unrestricted medical license
 - G. No physician owners or operators of a pain management practice, nor any physician, nor any physician assistant, nor any medical director, manager, or employee or any physician or physician assistant who provides care may:
 - 1. have been denied, by any jurisdiction, a certificate permitting the licensee to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;

2. have been issued, by any jurisdiction, a limited certificate to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
 3. have been denied a certificate issued by the Drug Enforcement Administration (DEA) permitting the licensee to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
 4. have been issued a limited certificate by the Drug Enforcement Administration (DEA) permitting the licensee to order, prescribe, dispense, administer, supply or sell a controlled substance or the other listed medications under definitions;
 - ~~5.~~ be currently subject to an order by any licensing entity prohibiting the practice of pain management; or
 6. have been terminated from Mississippi's Medicaid Program, the Medicaid program of any other state, or the federal Medicare program, unless eligibility has been restored.
- H. No physician or physician assistant may own, operate, or practice in a pain management medical practice who has been convicted of, pled nolo contendere to or received deferred adjudication for:
1. an offense that constitutes a felony; or
 2. an offense that constitutes a misdemeanor, the facts of which relates to the illegal distribution or sale of drugs or controlled substances.
- I. All physician owners or operators or any physician who serves as medical director, manager, or employee or who provides care in pain management medical practice must meet the qualifications set forth in subsections (1) through (5) below. All physicians prescribing or dispensing controlled substance medications in pain management practices registered by the Board must meet one (1) of the following qualifications:
1. successful completion of a residency program in physical medicine and rehabilitation, anesthesiology, neurology, or neurosurgery and approved by the ACGME or the AOA;
 2. board certification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Board of Addiction Medicine (ABAM) and hold a subspecialty certification in pain medicine;
 3. board certification by a specialty board recognized by the American Osteopathic Association Bureau of Osteopathic Specialists (BOS) in pain management;
 4. board certification in pain medicine by the American Board of Pain Medicine (ABPM); or
 5. successful completion of 100 hours of inter-active live participatory, either in person or via video conferencing, AMA or AOA Category 1 CME courses in pain management.

Upon qualifying under any of the 5 subsections above, physicians must also complete thirty (30) hours of Category 1 CME each year for continued registration with the board. CME must have emphasis in the specific areas of pain management, addiction, or prescribing of opiates, and CME may be included with the forty (40) hour requirement for licensure renewal. Excess hours may not be carried over to another two-year cycle. For the purpose of this regulation, the two-year period begins with the fiscal year July 1, 2014, and every two years thereafter to be concurrent with the licensure requirements.

- J. Physicians and physician assistants practicing in a registered pain management medical practice must be registered with the Mississippi Prescription Monitoring Program (MPMP). A report from the MPMP must be obtained on the initial visit for each patient. Subsequent reports must be obtained for each patient at every visit.
- K. Physician assistants must meet the following qualifications prior to practicing in a registered pain management practice:
 - 1. A Board approved protocol in the practice of pain management as required by Part 2615, Chapter 1, Rules 5 and 6, with a physician who holds a license that is not designated as limited, restricted, retired, temporary, or in-training;
 - 2. Physician assistants with approved prescriptive authority must obtain the normal hours required in Pt. 2615, R.1.10 *Continuing Education* plus an additional 5 hours of Category 1 CME related to prescribing and pain management for every two year CME cycle the physician assistant is practicing in a pain management medical practice;
 - 3. Physician assistants with prescriptive authority must be familiar with and adhere to the Administrative Rule Pertaining to Prescribing, Administering and Dispensing of Medication, Part 2640, Chapter 1; and
 - 4. Physician assistants with prescriptive authority must be registered with the Mississippi Prescription Monitoring Program (MPMP).
- L. A physician who is a current participant in the Mississippi Professionals Health Program (MPHP) may not be the primary physician owner of a pain practice. This does not prohibit a MPHP participant from working in a pain practice.
- M. Prior to the initial prescription for the treatment of chronic non-cancer/non-terminal pain, each patient in a pain management practice must have an in-person evaluation by a licensed provider in a registered pain management practice medically directed by a physician having the necessary credentials as set forth by the Board. Thereafter, the patient must be seen and evaluated by a pain management physician within the next ninety (90) days.
- N. The Board has the authority to inspect a pain management medical practice. During such inspections, authorized representatives of the Board, who may be accompanied by investigators from state or federal law enforcement agencies, may inspect documents and medical records to ensure compliance with any applicable laws and rules.

- O. If the Board finds that a licensee registered to practice in a pain management practice no longer meets any of the requirements to operate within a pain practice, the Board may immediately revoke or suspend the licensee's ability to practice in a pain management medical practice. The licensee shall have the right to an administrative hearing before the Board at the next available and scheduled meeting of the Board. Further, the Board has the discretion to lift the suspension when the licensee demonstrates compliance with applicable rules and regulations.

Source: Miss. Code Ann. §73-43-11 (1972, as amended). *Rule 1.15 Violation of Rules.*

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

The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules constitutes unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public, in violation of Miss. Code Ann., § 73-25-29(8)(d).

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

Rule 1.16 Effective Date of Rules. The above rules pertaining to prescribing, administering and dispensing of medication shall become effective October 31, 1987; as amended November 1, 1990; as amended January 3, 1994; as amended September 10, 1995; as amended June 30, 1996; as amended March 18, 1999; as amended May 20, 1999; as amended February 17, 2001; as amended March 22, 2001; as amended July 15, 2004; as amended October 14, 2004; as amended November 8, 2007; as amended May 15, 2008; as amended March 13, 2009; as amended March 24, 2011; as amended September 17, 2012; as amended September 19, 2013; as amended May 22, 2014; as amended November 13, 2015; and as amended September 20, 2018, and effective October 29, 2018.

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

Part 2640: Chapter 2: Cannabis Certification

Rule 1.1 | Scope

The rules contained in this Part 2640, Chapter 2, are promulgated by the Mississippi Board of Medical Licensure (the "Board") to implement the Mississippi Medical Cannabis Act, Miss. Code Ann., §§ 41-137-1, et seq., (the "Act"). These rules shall apply to all licensees who are registered as certifying practitioners with the Mississippi State Department of Health (MDOH); or who are applying, or re-applying, to register as certifying practitioners with the MDOH. Nothing in these rules shall be construed to require any licensee to issue any written certification pursuant to the

Act. No licensee is required to register with the Board in order to certify patients. However, all advice or services provided pursuant to the Act must meet or exceed the applicable professional standard of care.

Source: Miss. Code Ann. § 73-43-11 (1972, as amended); Miss. Code Ann. § 41-137-5(7)(c) (as amended Mar. 27, 2023); Miss. Code Ann. § 41-137-9(2)(d) (2022).

Rule 1.2 / Definitions

For the purposes of Part 2640, Chapter 2, the following terms have the meanings indicated:

- A. ***Bona fide practitioner-patient relationship*** means:
- (i) A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner, within his or her scope of practice, has completed an in-person assessment of the patient's medical history and current mental health and medical condition and has documented their certification in the patient's medical file;
 - (ii) The practitioner has consulted in person with the patient with respect to the patient's debilitating medical condition; and
 - (iii) The practitioner is available to or offers to provide follow-up care and treatment to the patient.
- B. ***Cannabis*** means all parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts. Such term shall not mean cannabis-derived drug products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act.
- C. For the purposes of this Chapter, ***Practitioner*** means a physician or physician assistant who is licensed to prescribe medicine under the licensing requirements of the Boards and the laws of this state. In relation to a nonresident cardholder, the term means a physician or physician assistant who is licensed to prescribe medicine under the licensing requirements of their respective occupational boards and under the laws of the state or territory in which the nonresident patient resides. For registered qualifying patients who are minors, "practitioner" shall mean a physician or doctor of osteopathic medicine who is licensed to prescribe medicine under the licensing requirements of the Board and the laws of this state.
- D. ***Chronic pain*** means a pain state in which the cause of the pain cannot be removed or otherwise treated, and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts by the certifying practitioner.
- E. ***Debilitating medical condition*** means:

- (i) Cancer, Parkinson's disease, Huntington's disease, muscular dystrophy, glaucoma, spastic quadriplegia, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis, amyotrophic lateral sclerosis (ALS), Crohn's disease, ulcerative colitis, sickle-cell anemia, Alzheimer's disease, agitation of dementia, post-traumatic stress disorder (PTSD), autism, pain refractory to appropriate opioid management, diabetic/peripheral neuropathy, spinal cord disease or severe injury, or the treatment of these conditions;
- (ii) A chronic, terminal or debilitating disease or medical diagnosis, or its treatment, that produces one or more of the following: cachexia or wasting syndrome, chronic pain, severe or intractable nausea, seizures, or severe and persistent muscle spasms, including, but not limited to, those characteristic of multiple sclerosis; or
- (iii) Any other serious medical condition or its treatment added by the Mississippi Department of Health, as provided for in Section 41-137-17.

F. ***Medical use*** includes the acquisition, administration, cultivation, processing, delivery, harvest, possession, preparation, transfer, transportation, or use of medical cannabis or equipment relating to the administration of medical cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition. The term "medical use" does not include:

- (i) The cultivation of cannabis unless the cultivation is done by a cannabis cultivation facility; or
- (ii) the extraction of resin from cannabis by mechanical or chemical extraction unless the extraction is done by a cannabis processing facility.

G. ***Qualifying Condition*** means any condition as described and defined in Section 41-137-3(r) and R.1.2(E) of this Chapter.

H. ***Qualifying Patient*** means a person who has been diagnosed by a practitioner as having a debilitating medical condition as described and defined in Section 41-137-3(r)(1) and has been issued a written certification, or who is eligible to receive such certification, under Section 41-137-5.

I. ***Scope of practice*** means the defined parameters of various duties, services or activities that may be provided or performed by a physician as authorized under Section 73-25-33, or by a physician assistant under Section 73-26-5, and the rules and regulations adopted by the Board for those practitioners.

J. ***Written Certification*** means a form approved by the Mississippi State Department of Health, signed and dated by a practitioner, certifying that a person has a debilitating medical condition. A written certification shall include the following:

- (i) The date of issue and the effective date of the recommendation;
- (ii) The patient's name, date of birth and address;
- (iii) The practitioner's name, address, and federal Drug Enforcement Agency number; and
- (iv) The practitioner's signature.

Source: Miss. Code Ann. § 73-43-11 (1972, as amended); Miss. Code Ann. § 41-137-3 (2022, as amended March 27, 2023).

Rule 1.3 / Certification

A. Certification Generally

(i) Practitioners must be authorized and registered with the Mississippi State Department of Health to certify patients as eligible to obtain cannabis for medical use. No person shall be authorized to use medical cannabis in this state unless the person (a) has been diagnosed by a practitioner, with whom the person has a bona fide practitioner-patient relationship within his or her scope of practice, as having a debilitating medical condition for which the practitioner believes, in his or her professional opinion, that the person would likely receive medical or palliative benefit from the medical use of medical cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition, (b) has received a written certification of that diagnosis from the practitioner, and (c) has been issued a registry identification card from the MDOH under Section 41-137-23. A person who has been diagnosed by a practitioner as specified in paragraph (a) of this subsection shall be a qualifying patient, and the practitioner who has diagnosed the patient shall document that diagnosis with a written certification. However, nothing herein shall require a practitioner to issue a written certification.

(ii) A written certification shall:

- (i) Affirm that it is made in the course of a bona fide practitioner-patient relationship;
- (ii) Remain current for twelve (12) months, unless the certifying practitioner specifies a shorter period of time;
- (iii) Be issued only after an in-person assessment of the patient by the certifying practitioner;
- (iv) Only be issued on behalf of a minor when the minor's parent or guardian, as defined in the Act, provides signed consent; and
- (v) Be limited to the allowable amount of cannabis in a thirty-day period.

After a practitioner has issued a written certification to a qualifying patient, a practitioner may assist the patient in registering for a registry identification card with the Department of Health, in a manner provided by regulations of the Department of Health.

After a qualifying patient receives a written certification from a practitioner, the patient shall be required to make a follow-up visit with the practitioner not less than six (6) months after the date of issuance of the certification for the practitioner to evaluate and determine the effectiveness of the patient's medical use of medical cannabis to treat or alleviate the patient's debilitating medical

condition or symptoms associated with the patient's debilitating medical condition. Qualifying patients may make a follow-up visit with a different practitioner than the practitioner who originally issued their written certification, provided that such practitioner is otherwise registered and acting within their scope of practice and the provisions of this chapter.

B. Pediatric Certifications

Only physicians (Medical Doctors [MD] or Doctors of Osteopathic Medicine [DO]) may issue written certifications to registered qualifying patients who are minors (younger than eighteen (18) years of age).

A certifying practitioner may not issue a written certification to a qualifying patient who is younger than eighteen (18) years of age unless:

- (a) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of medical cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and
- (b) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - (i) Acknowledge the potential harms related to the use of medical cannabis;
 - (ii) Allow the qualifying patient's medical use of medical cannabis;
 - (iii) Serve as the qualifying patient's designated caregiver; and
 - (iv) Control the acquisition of the medical cannabis, the dosage and the frequency of the use of medical cannabis by the qualifying patient.

C. Young Adult Certifications

Notwithstanding any other provision to the contrary, a patient with a qualifying condition who is between eighteen (18) years to twenty-five (25) years of age is not eligible for a medical cannabis registry identification card unless two (2) practitioners from separate medical practices have diagnosed the patient as having a qualifying condition after an in-person consultation. One (1) of these practitioners must be a physician (Medical Doctor [MD] or Doctor of Osteopathic Medicine [DO]).

If one (1) of the recommending practitioners is not the patient's primary care practitioner, the recommending practitioner shall review the records of a diagnosing practitioner. The requirement that the two (2) practitioners be from separate medical practices does not apply if the patient is homebound or if the patient had a registry identification card before the age of eighteen (18).

Source: Miss. Code Ann. § 73-43-11 (1972, as amended); Miss. Code Ann. § 41-137-5 (2002, as amended March 27, 2023); Miss. Code Ann. § 41-137-9 (2022, as amended March 27, 2023); Miss. Code Ann. § 41-137-23 (2022, as amended March 27, 2023).

Rule 1.4 / Patient Record

A practitioner who assesses a patient for certification must maintain a complete record of his or her assessment, just as with any other patient.

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

Rule 1.5 / Continuing Medical Education (CME)

- (a) A practitioner shall be registered to issue written certifications to qualifying patients by completing the required application process as set forth by the MDOH. The MDOH shall require a practitioner to complete a minimum of eight (8) hours of continuing education in medical cannabis in order to issue written certifications. After the first year of registration, these practitioners shall complete five (5) hours of continuing education in medical cannabis annually to maintain this registration.
- (b) A practitioner shall not be required to have any additional qualifications to be authorized to certify a qualifying patient for a registry identification card, other than such requirements for practitioners as provided under the Mississippi Medical Cannabis Act.
- (c) A practitioner shall not be required to be registered to certify patients with any state agency or board other than the MDOH

Source: Miss. Code Ann. § 73-43-11 (1972, as amended); Miss. Code Ann. § 41-137-5 (2022, as amended March 27, 2023).

Rule 1.6 / Violations

Violation of any of the rules or requirements in this Part 2640, Chapter 2, or of any provision of the Mississippi Medical Cannabis Act, constitutes unprofessional conduct in violation of Miss. Code Ann. § 73-25-29(8)(d) and may subject a licensee to discipline. Discipline under this Chapter and other provisions of the Administrative Code shall be in addition to any other civil, criminal, or administrative penalties available under state law.

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

The above rules pertaining to cannabis certification shall become effective August 26, 2022.

