

Title 30 – Mississippi State Board of Medical Licensure

Part II – Rules and Regulations Governing the Practice of Physicians, Podiatrists, Physician Assistants and Radiologist Assistants

Chapter 01 Licensure Regulations Governing the Practice of Medical Doctors, Osteopathic Physicians and Podiatrists

Scope

- 100 These regulations apply to all applicants for licensure to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi whether by examination or by endorsement, and to all individuals practicing medicine, osteopathic medicine or podiatric medicine within the state whether licensed or unlicensed.

Definitions

- 200 For the purpose of Chapters 01 through 04, the following terms have the meanings indicated:
1. “Board” means the Mississippi State Board of Medical Licensure.
 2. “ECFMG” means the Education Commission for Foreign Medical Graduates.
 3. “FLEX” means the Federation Licensing Examination administered through the Federation of State Medical Boards of the United States, Incorporated.
 4. “USMLE” means United States Medical Licensing Examination administered jointly through the Federation of State Medical Boards of the United States, Incorporated, and the National Board of Medical Examiners.
 5. “NBME” means National Board of Medical Examiners.
 6. “NBOME” means the National Board of Osteopathic Medical Examiners.
 7. “SPEX” means the Special Purpose Examination administered through the Federation of State Medical Boards of the United States, Incorporated.
 8. “Foreign Medical School” means any medical college or college of osteopathic medicine located outside the United States, Canada or Puerto Rico.
 9. “LCME” means the Liaison Committee on Medical Education, the organization recognized by the American Medical Association for accrediting American medical schools.
 10. “LMCC” means Licentiate of the Medical Council of Canada.
 11. “AOA” means American Osteopathic Association.
 12. “ACGME” means Accreditation Council of Graduate Medical Education.
 13. “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.

Duty to Obtain License

- 300 Any physician, osteopathic physician, or podiatrist desiring to practice in this state must first obtain a license to do so by contacting the Mississippi State Board of Medical Licensure at its current address or website address.
- 301 The practitioner must complete an application and submit it to the Board in a manner prescribed by the Board. References submitted on the application are queried, as well as the American Medical, Osteopathic, or Podiatry Associations, Federation of State Medical Boards, National Practitioners Data Bank, other states in which the practitioner is or has been licensed, entities where the practitioner is or has been employed, and hospitals where the practitioner has held staff privileges.
- 302 A physician, osteopathic physician, or podiatrist who is participating in or who has participated in an impaired professionals/disabled doctors 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 in Mississippi.
- 303 Prior to the issuance of, or reinstatement of a license, any physician, osteopathic physician, or podiatrist who has not actively practiced for a three (3) year period shall be required to participate in a Board approved physician assessment program and/or clinical skills assessment program to assure post-licensure competency.
- 304 A physician, osteopathic physician or podiatrist shall be deemed to have not “actively” practiced medicine if during said three (3) year period the physician, osteopathic physician or podiatrist has not treated any patients for remuneration, other than friends and family.
- 305 Sections 302 - 304 exclude those physicians, osteopathic physicians, or podiatrists who perform charity work or work in research.

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

Chapter 02 Licensure Requirements for the Practice of Medical Doctors and Osteopathic Physicians

Licensure by Examination

- 100 To qualify for admission by examination, an individual shall meet the following requirements, provided that the Board may admit any individual to the examination while reserving its right to deny licensure if that individual fails to meet all requirements for licensure subsequent to success or completion of the examination:
1. Applicant must satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.

2. Present a diploma from a reputable medical college or college of osteopathic medicine, subject to the following conditions:
 - a. 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 by the Liaison Committee on Medical Education (LCME), a Joint Committee of the Association of American Medical Colleges (AAMC) and the American Medical Association (AMA), or if a college of osteopathic medicine, must be accredited by the Professional Education Committee of the American Osteopathic Association (AOA).
 - b. If the degree is from a Canadian medical school, the school must be accredited by the Liaison Committee on Medical Education (LCME) and by the Committee on Accreditation for Canadian Medical Schools, as sponsored by the Canadian Medical Association and Association of Canadian Medical Colleges.
 - c. If the degree is from a foreign medical school, applicant must either (i) possess a valid certificate from the ECFMG or (ii) document successful completion of a Fifth Pathway program, as described in Section 101.
 - d. 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.
3. Applicants for licensure by examination must present documentation of having completed at least one (1) year of postgraduate training in the United States accredited by the Accreditation Council for Graduate Medical Education (ACGME) or by the AOA; or training in Canada accredited by the Royal College of Physicians and Surgeons.
4. Present certified copy of birth certificate or valid passport.
5. Subject to the provisions of Section 300.1 and 300.2, an applicant must successfully complete and pass all parts/steps of the FLEX or USMLE.
6. 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.
7. Submit fee prescribed by the Board; however, any fees related to permanent licensure may be deferred for applicants indicating a desire to practice medicine under a Temporary License or Limited License within the confines of an ACGME or AOA approved postgraduate training program pursuant to Chapter 04 of these regulations.
8. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and successfully pass the Jurisprudence Examination as administered by the Board.

101 A Fifth Pathway Program, as a prerequisite for licensure by examination pursuant to Section 100.2.d, will be considered on an individual basis. Students who have completed the academic curriculum in a foreign medical school and who have fulfilled the conditions set forth, may be offered the opportunity to substitute for an internship required by the foreign medical school, an academic year of supervised clinical training prior to entrance into the first year of ACGME or AOA approved postgraduate medical education. The supervised clinical training (Fifth Pathway) must be under the direction of a medical school accredited by the LCME. Fifth Pathway will be available to students who have fulfilled the following conditions:

1. Completed, in an accredited American college or university, undergraduate pre-medical work of the quality acceptable for matriculation in an accredited U.S. medical school.
 2. Studied medicine at a medical school located outside the United States, Puerto Rico and Canada but which is recognized by the World Health Organization.
 3. Completed all of the formal requirements of the foreign medical school except internship and/or social service.
- 102 Prior to issuance of a permanent Mississippi medical license, a graduate of a foreign medical school who has successfully completed all other requirements of application for licensure by examination must present documentation of having completed at least three (3) years of ACGME-approved postgraduate training in the United States or training in Canada approved by the Royal College of Physicians and Surgeons.

Licensure by Reciprocity or Endorsement

- 200 The Board endorses, for the purpose of reciprocity, licenses to practice medicine obtained in most states by written examination prior to March 8, 1973. Subject to the provisions of Section 300 below, all applicants for medical licensure by reciprocity 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, for the purpose of reciprocity, licenses to practice medicine from applicants who have successfully taken Steps 1, 2 and 3 of the USMLE.
- 201 Those doctors of osteopathic medicine who graduated prior to June 1, 1973, and who make application for licensure by reciprocity with another state 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 will be obtained by this Board from that licensing board.
- 202 The Board may affiliate with and recognize for the purpose of waiving examination and may grant licenses to Diplomates of the NBME; on or after February 13, 1973, to Diplomates of the NBOME and licentiates of the Medical Council of Canada. If a Diplomate of the NBME or NBOME, the applicant must have a Certification of Endorsement from that Board submitted directly to the Board. If seeking endorsement with the Medical Council of Canada, the applicant must have a Certificate of Standing submitted directly to the Board.
- 203 The applicant must have the state board where the original license was obtained by examination submit a certified copy of the examination to the Board.

- 204 The Board may grant a license by reciprocity 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 American Board of Medical Specialties. A statement verifying that the applicant is currently certified must be submitted directly to the Board by the American Board of Medical Specialties Board. The applicant must comply with all other licensure requirements for foreign medical graduates.
- 205 In addition to the above requirements for licensure by reciprocity and/or endorsement, an individual shall meet the following requirements:
1. Applicant must be twenty-one (21) years of age and of good moral character.
 2. Present a diploma from a reputable medical college or college of osteopathic medicine, subject to the following conditions:
 - a. 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 by the Liaison Committee on Medical Education (LCME), a Joint Committee of the Association of American Medical Colleges (AAMC) and the American Medical Association (AMA) or the College of Osteopathic Medicine must be accredited by the American Osteopathic Association (AOA).
 - b. If the degree is from a Canadian medical school, the school must be accredited by the Liaison Committee on Medical Education (LCME) and by the Committee on Accreditation for Canadian Medical Schools, as sponsored by the Canadian Medical Association and Association of Canadian Medical Colleges.
 - c. If the degree is from a foreign medical school, applicant must either (i) possess a valid certificate from the ECFMG or (ii) document successful completion of a Fifth Pathway program, as described in Section 101, and be currently board certified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association.
 - d. 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.
 3. 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 Accreditation Council for Graduate Medical Education (ACGME) or by the AOA; or training in Canada accredited by the Royal College of Physicians and Surgeons.
 4. If a graduate from a foreign medical school, applicant must present documentation of having completed either:
 - a. three (3) or more years of ACGME-approved postgraduate training in the United States or training in Canada approved by the Royal College of Physicians and Surgeons; or
 - b. at least one (1) year of ACGME-approved postgraduate training in the United States or training in Canada approved by the Royal College of Physicians and Surgeons, be currently board certified by a specialty board recognized by the

American Board of Medical Specialties or the American Osteopathic Association and must have approval by the Mississippi State Board of Medical Licensure.

5. An applicant who otherwise possesses all of the qualifications for licensure by reciprocity/endorsement, 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 Special Purpose Examination (SPEX)* as administered by and under auspices of the Board, unless the applicant:
 - a. Submits satisfactory proof of current certification by an American Board of Medical Specialties or American Osteopathic Association approved specialty board; or
 - b. Submits proof that the applicant's sole purpose for seeking licensure is to serve as the Dean, Chairman of the Department or Faculty of the University of Mississippi School of Medicine. In such case, a license shall remain in effect so long as Licensee is a member of the faculty of the University School of Medicine.
6. Present certified copy of birth certificate or valid passport.
7. 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.
8. Submit fee prescribed by the Board.
9. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and successfully pass the Jurisprudence Examination as administered by the Board.

206 Graduates of foreign medical schools seeking licensure by reciprocity or endorsement via Fifth Pathway Programs will be considered on an individual basis subject to those requirements set forth in Section 101.

Licensure Examinations

300 For the purpose of licensing by examination and reciprocity, the Board recognizes three (3) separate and distinct examinations, to-wit: The examinations administered by the NBME, 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, for the purposes of reciprocity, 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:

1. FLEX
 - a. The Board adopted the Federation Licensing Examination (FLEX) as the method of licensure by examination on March 8, 1973. The last regular administration of

* 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 of the United States, Incorporated.

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.

- b. 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 American Board of Medical Specialties or the American Osteopathic Association.

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

- c. An applicant has seven (7) years in which to pass both components of the FLEX. An applicant is required to repeat only that component failed. A candidate who is unsuccessful in passing the FLEX after three (3) attempts will be required to take one additional year of post-graduate training approved by the Accreditation Council for Graduate Medical Education (ACGME) before being eligible to take the FLEX again. Following completion of the year of postgraduate training, applicant may be allowed three (3) additional attempts to pass the FLEX.

2. USMLE

- a. The Board adopted the United States Medical Licensing Examination (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. Unlike the FLEX, which must be 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.
- b. To be eligible for Step 1 or Step 2 of the USMLE, an applicant must be an officially enrolled medical student or a graduate of a United States, Puerto Rican or Canadian medical school accredited by the LCME or the AOA, or an officially

enrolled medical student or a graduate of a foreign medical school and eligible for examination by the ECFMG for a certificate.

- c. To be eligible to take Step 3 of USMLE, an applicant must (a) complete an application for a Mississippi medical license and (b) meet all other requirements for licensure, as provided in Section 100.
 - d. A score of 75 is necessary to successfully pass each step of the USMLE.
 - e. 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. An applicant has seven (7) years in which to pass all steps of the USMLE. A candidate who is unsuccessful in passing Step 3 after three (3) attempts will be required to take one (1) additional year of ACGME-approved postgraduate training before being eligible to take Step 3 again. Following completion of the year of postgraduate training, the applicant may be allowed three (3) additional attempts to pass Step 3 of the USMLE.
3. NBME or NBOME
The Board recognizes for the purpose of reciprocity and waiving examination, diplomates of the NBME and on or after February 13, 1973, diplomates of the NBOME. Both examinations are administered in three (3) parts, Parts I, II and III. Applicants must have the NBME or NBOME submit a certificate evidencing successful completion of the examination directly to the Board.
 4. 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.

Chapter 03 Licensure Regulations Governing the Practice of Podiatrists

Licensure by Examination

- 100 To qualify for admission by examination, an individual shall meet the following requirements, provided that the Board may admit any individual to the examination while reserving its right to deny licensure if that individual fails to meet all requirements for licensure subsequent to success or completion of the examination:
1. Applicant must satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
 2. Applicant must have had at least four (4) years of high school and be graduate of same; he or she shall have at least one (1) year pre-podiatry college education.
 3. Present a diploma from a college of podiatric medicine recognized by the Board as being in good standing, subject to the following conditions:
 - a. 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.
 - b. 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 recognized by the Council on Education of the American Podiatry Association.
 4. Present certified copy of birth certificate or valid passport.

5. Successfully take an examination for podiatrists. The applicant shall be examined in the following subjects: anatomy, histology, physiology, chemistry, pharmacy, materia medica, therapeutics, bacteriology, pathology, surgery, dermatology, neurology, physical therapy, diagnosis and roentgenology, orthopedics, chiropody and chiropodial surgery, limited in their scope to the treatment of the human foot and leg, and if found qualified shall receive a license. The minimum of requirements for license shall be a general average of seventy-five percent (75%) of all the subjects involved, provided that a grade of not less than sixty percent (60%) be made on any one (1) subject or branch given in the examination held. However, applicants are encouraged to take the examinations given by the National Board of Podiatry Examiners.
6. 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.
7. Submit fee prescribed by the Board.
8. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and successfully pass the Jurisprudence Examination as administered by the Board.

Licensure by Reciprocity or Endorsement

- 200 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.
- 201 The Board may affiliate with and recognize for the purpose of waiving examination and may grant licenses to Diplomates of the National Board of Podiatric Examiners. If a Diplomat of the National Board of Podiatric Examiners, the applicant must have certification of endorsement from that Board submitted directly to the Board.
- 202 In addition to the above requirements for licensure by reciprocity and/or endorsement, an individual shall meet the following requirements:
1. Applicant must be twenty-one (21) years of age, and of good moral character.
 2. 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.
 3. Present a diploma from a college of podiatric medicine recognized by the Board as being in good standing, subject to the following conditions.
 - a. 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.
 - b. 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 recognized by the Council on Education of the American Podiatry Association.
 4. Present proof of completion of one (1) year of APMA-approved postgraduate training in the U.S. or Canada.
 5. Present certified copy of birth certificate or valid passport.

6. 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.
7. Submit fee prescribed by the Board.
8. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and successfully pass the Jurisprudence Examination as administered by the Board.

Amended March 8, 2007. Amended May 17, 2007.

Chapter 04 Temporary Licensure

Temporary Licensure

- 100 Mississippi temporary medical licenses may be issued to applicants for licensure in Mississippi only after completion of an application for licensure by (a) examination; (b) reciprocity with another state; or (c) endorsement of the National Board of Medical Examiners, National Board of Examiners for Osteopathic Physicians and Surgeons, or the Medical Council of Canada (LMCC) under the following conditions:
1. A restricted temporary medical license may be issued upon proper completion of an application for medical licensure by examination or by reciprocity/endorsement to an applicant who otherwise meets all requirements for licensure except completion of the postgraduate training requirements provided in Chapter 02, Section 100.3 and successful completion of Step 3 of USMLE as provided in Chapter 02 Section 300.2.c. 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 reciprocity or by endorsement. 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.
- 101 The State Board of Medical Licensure 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
 - a. must have favorable references from two physicians with whom the applicant has worked or trained within the last year;
 - b. 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
 - c. must submit fee prescribed by the Board.
 2. Retired Resident Physician

- a. must be in good standing with the Mississippi State Board of Medical Licensure, and
- b. must submit fee as prescribed by the Board.

102 The State Board of Medical Licensure may issue a temporary license to practice medicine to physicians who have been admitted for treatment in a drug and/or alcohol treatment program approved by the Board, or who are enrolled in the fellowship of addictionology in the Mississippi State Medical Association 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 of Medical Licensure in writing that such license is in good standing.

1. A temporary license issued under this subsection shall be valid for a period of ninety (90) days but may be renewed every ninety (90) days for the duration of the fellowship or treatment program. 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 subsection 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 subsection shall not apply to the U.S. Drug Enforcement Administration for a controlled substances registration certificate and must be under the supervision of another physician holding a valid and 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 subsection 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.

103 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.

Limited Institutional Licensure

200 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.

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.

- 201 An application for limited institutional licensure may be obtained only upon the written request of the director of the state-supported institution which has employed or is considering employing a graduate of a foreign medical school to practice medicine.
- 202 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
- 203 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 present original diploma 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 have favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
 5. Must submit an application completed in every detail with recent passport type photograph.
 6. Must submit fee prescribed by the Board.
 7. Must appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and successfully pass the Jurisprudence Examination as administered by the Board.
- 204 Pursuant to Section 73-25-23, Mississippi Code, a limited institutional license must be renewed annually, after such review as the State Board of Medical Licensure considers necessary. A graduate of a foreign medical school so licensed may hold such limited institutional license no longer than five (5) years; provided, however, that any graduate of a foreign medical school so licensed and employed by any state institution on January 1, 1981, shall not be subject to the five-year limitation created by statute. Based upon the above law:

1. The limited institutional licenses of graduates of foreign medical schools so licensed and employed by a state institution on January 1, 1981, shall be renewable annually based upon the favorable recommendation of the director of the institution by which the licensee is employed.
2. The limited institutional licenses of graduates of foreign medical schools so licensed and employed by a state institution from January 2, 1981, through June 30, 1983, shall be renewable annually for five years, beginning July 1, 1983, based upon the favorable recommendation of the director of the institution by which the licensee is employed.
3. 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.

205 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.

206 An annual renewal fee shall be prescribed by the Board.

Temporary Training License for Out-of-State Residents

- 300 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:
1. A completed information form which has been supplied by the Board.
 2. 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.
 3. A letter from the training program in Mississippi stating the physician will be training with them and the duration.
 4. Verification of a current license (limited or training), permit, or letter from the state in which the individual is enrolled in a training program.
 5. A licensure fee in the amount of \$50.
- 301 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.
- 302 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.

- 303 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.

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

Chapter 05 Effect of Application

- 100 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.
- 101 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.
- 102 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 Section 100 or 101 of this chapter, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the medical licensing authority of any state; The Federation of State Medical Boards of the United States, Incorporated; the American Medical Association and any component state and county or parish medical society, including the Mississippi State 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 chapter to authorize release of only that licensure information not prohibited from release under Section 73-52-1, Mississippi Code.

- 103 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 letters of recommendation, certification of graduation from medical school, photograph of applicant, internship certificate 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, certifications, and references. 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, certifications, and references. Under no circumstances will the one year time limit be waived.

Chapter 06 Change of Address

- 100 Any physician, osteopathic physician or podiatrist who is licensed to practice medicine in this state and changes his or her practice location shall immediately notify the Board in writing of the change of location. Failure to notify within thirty (30) days could result in disciplinary action.

Amended May 17, 2007.

Chapter 07 CME Requirements

Basic Requirement

- 100 Every Mississippi licensee must earn or receive not less than forty (40) hours of Category 1 continuing medical education in a two-year cycle as a condition precedent to renewing his or her license for the next fiscal year. Excess hours may not be carried over to another two-year cycle. For the purpose of this regulation, the two-year period begins July 1, 2000, and every two years thereafter.
1. Category 1 continuing medical education shall mean those programs of continuing medical education designated as Category 1 which are sponsored or conducted by those organizations approved by the Mississippi State Medical Association, American Medical Association or by the Accreditation Council for Continuing Medical Education (ACCME) to sponsor or conduct Category 1 continuing medical education programs.
 2. Programs of continuing medical education designated as Category 1-A which are sponsored or conducted by organizations or entities accredited by the American Osteopathic Association to sponsor or conduct Category 1-A continuing medical education for osteopathic physicians.

3. Programs of continuing medical education designated as a “prescribed hour” which are sponsored or conducted by organizations or entities accredited by the American Academy of Family Physicians to sponsor or conduct “prescribed hours” of continuing medical education.
4. Programs of continuing medical education designated as “cognates” which are sponsored or conducted by organizations or entities which are accredited by the American College of Obstetrics and Gynecology to sponsor or conduct approved cognates on obstetrical and gynecological related subjects.
5. Programs of continuing medical education designated as Category 1-A which are sponsored or conducted by organizations or entities accredited by the Council on Podiatric Medical Education to sponsor or conduct Category 1-A continuing medical education for podiatrists.

Persons Affected

- 200 Every Mississippi licensee is required to comply with the minimum requirement for continuing medical education established by these rules and regulations.

Exemption for Initial Licenses

- 300 Physicians, osteopaths or podiatrists receiving their initial license to practice medicine in Mississippi after June 30, or receiving their board certification after June 30, are exempt from the minimum continuing medical education requirement for the two-year period following their receiving a license or board certification. The forty (40) hour continuing education certification will be due within the next two-year cycle.

July 1, 2000 through June 30, 2002 (1st cycle)

July 1, 2002 through June 30, 2004 (2nd cycle)

July 1, 2004 through June 30, 2006 (3rd cycle)

July 1, 2006 through June 30, 2008 (4th cycle)

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

Effective Date

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

Record Keeping Requirement

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

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

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

Annual Renewal

- 600 As a condition for annual renewal of license, beginning with the fiscal year July 1, 2002, through June 30, 2003, every physician, osteopath or podiatrist will be required to biennially certify on his or her annual renewal form that he or she has earned the required 40 hours of approved Category 1 continuing medical education requirement. The Board will randomly select physicians to ensure complete compliance with this requirement. If deficiencies are identified, licensee must complete deficiencies within six (6) months of date of notification. Failure to comply may result in the suspension of licensee's license.
- 601 Any physician, osteopath or podiatrist practicing during the time of a suspended license shall be considered an illegal practitioner and shall be subject to penalties provided for violation of the Medical Practice Act, and for costs incurred in the enforcement of this regulation.

Waiver

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

Compliance Review

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

Effective Date of Regulation

- 900 The above rules and regulations pertaining to continuing medical education shall become effective February 16, 2000.

Amended May 17, 2007.

Chapter 08 Release of Medical Records

Definitions

- 100 For the purpose of Chapter 08 only, the following terms have the meanings indicated:
1. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 2. “Medical Records” means all records and/or documents relating to the treatment of a patient, including, but not limited to, family histories, medical histories, report of clinical findings and diagnosis, laboratory test results, x-rays, reports of examination and/or evaluation and any hospital admission/discharge records which the physician may have.
 3. “Patient” means a natural person who receives or should have received health care from a licensed physician, under a contract, express or implied, whether or not the physician is compensated for services rendered.
 4. “Legal Representative” means an attorney, guardian, custodian, or in the case of a deceased patient, the executor/administrator of the estate, surviving spouse, heirs and/or devisees.

Medical Records - Property of Physician/Clinic

- 200 Medical records, as defined herein, are and shall remain the property of the physician or physicians, in whose clinic or facility said records are maintained, subject, however, to reasonable access to the information contained in said records as set forth herein below.

Transfer of Patient Records to Another Physician

- 300 A physician who formerly treated a patient shall not refuse for any reason to make the information contained in his or her medical records of that patient available upon request by the patient, or legal representative of the patient, to another physician presently treating the patient. The physician has a right to request a written release from the patient or legal representative of the patient, authorizing the transfer prior to transfer of said documents. Upon receipt of the written release and authorization, the physician must tender a copy of said documents to the other physician within a reasonable period of time. Transfer of said documents shall not be withheld because of an unpaid bill for medical services, but the physician is entitled to reasonable compensation paid in advance for any copy expenses as provided in Section 600.

Release of Patient Records to Patient

- 400 A physician shall, upon request of the patient, patient's legal representative, or other person holding a written release and authorization (hereinafter, “authorized requesting party”), provide a copy of a patient's medical record to the authorized requesting party; provided, however, where release of psychiatric/psychological records directly to a patient would be deemed harmful to the patient's mental health or well-being, the physician shall not be obligated to release the records directly to the patient, but shall, upon request, release the records to the patient's legal representative. The physician has a right to request a written authorization prior to release of the records. Upon receipt of the written release and authorization, the physician must tender a copy of the records to the

authorized requesting party within a reasonable period of time. Transfer of the records shall not be withheld because of an unpaid bill for medical services, but the physician is entitled to reasonable compensation paid in advance for any copy expenses as provided in Section 600.

Narrative Summary of Medical Record

500 In some cases, a requesting party may wish to obtain a narrative summary of the medical record, in lieu of, or in addition to a copy of the medical record. Upon such a request, the physician may provide the narrative summary. The physician may charge a reasonable fee for the time devoted to preparation of the medical record narrative summary.

Duplication and Administrative Fees

600 Licensees have a right to be reimbursed for duplication and other expenses relating to requests for medical records. The copying charge is set by Mississippi Code, Section 11-1-52 as follows: Any medical provider or hospital or nursing home or other medical facility shall charge no more than the following amounts to patients or their representatives for photocopying any patient's records: Twenty Dollars (\$20.00) for pages one (1) through twenty (20); One Dollar (\$1.00) per page for the next eighty (80) pages; Fifty Cents (50¢) per page for all pages thereafter. Ten percent (10%) of the total charge may be added for postage and handling. Fifteen Dollars (\$15.00) may be recovered by the medical provider or hospital or nursing home or other medical facility for retrieving medical records in archives at a location off the premises where the facility/office is located. In addition, the actual costs of reproducing x-rays or other special records may be included. The duplication and administrative fees authorized herein are not intended to include or restrict any fees charged in relation to expert testimony.

601 A physician shall only charge normal, reasonable and customary charges for a deposition related to a patient that the physician is treating or has treated.

602 Any medical provider shall charge no more than Twenty-five Dollars (\$25.00) for executing a medical record affidavit, when the affidavit is requested by the patient or the patient's representative.

Exclusion

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

Violation of Regulations

800 A refusal by a physician to release patient records as enumerated above shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

**Amended March 16, 1995. Amended July 18, 2002. Amended September 18, 2003.
Amended September 16, 2004. Amended May 17, 2007.**

Chapter 09 Collaboration/Consultation With Nurse Practitioners

Scope

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

Definitions

- 200 For the purpose of Chapter 09 only, the following terms have the meanings indicated:
1. “Physician” means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi who holds an unrestricted license or whose practice or prescriptive authority is not limited as a result of voluntary surrender or legal/regulatory order.
 2. “Free Standing Clinic” means a clinic or other facility wherein patients are treated by a nurse practitioner, which is more than fifteen (15) miles away from the primary office of the collaborative/consultative physician. Excluded from this definition are all licensed hospitals, state health department facilities, federally qualified community health clinics and volunteer clinics.
 3. “Primary Office” means the usual practice location of a physician and being the same location reported by that physician to the Mississippi State Board of Medical Licensure and the United States Drug Enforcement Administration.
 4. “Collaborating/Consulting Physician” means a physician who, pursuant to a duly executed protocol has agreed to collaborate/consult with a nurse practitioner.
 5. “Nurse Practitioner” means any person licensed to practice nursing in the state of Mississippi and certified by the Mississippi Board of Nursing to practice in an expanded role as a nurse practitioner.

Board Review

- 300 Physicians who wish to collaborate/consult with a nurse practitioner who plans or anticipates practicing in a free standing clinic, must first (a) appear personally or by telephone before the Mississippi State Board of Medical Licensure and/or the Joint Committee of the Board of Medical Licensure and the Board of Nursing if the Board of Medical Licensure determines that the collaborative/consultative relationship may not be approved absent action from the Joint Committee, (b) present and discuss the protocol, and (c) obtain approval from the Board to act as a collaborating/consulting physician. The facts and matters to be considered by the Board shall include, but are not limited to, how the collaborating/consulting physician and nurse practitioner plan to implement the protocol, the method and manner of collaboration, consultation, and referral.
- 301 The requirement for Board appearance and approval set forth in Section 300 above also applies to any physician collaborating/consulting with a nurse practitioner who later moves to a free standing clinic under an existing protocol.
- 302 Where a nurse practitioner is practicing in a free standing clinic pursuant to an existing protocol as of the effective date of this regulation, the requirements of personal appearance or telephone interview and Board approval set forth in Section 300 above

shall not be required until the next succeeding renewal date for said certificate as required by the Mississippi State Board of Nursing.

- 303 Where two or more physicians anticipate executing a protocol to collaborate/consult with a nurse practitioner practicing in a free standing clinic, it shall not be necessary that all of the physicians personally appear before the Mississippi State Board of Medical Licensure as required in Section 300. In this situation, the physician who will bear the primary responsibility for the collaboration/consultation with the nurse practitioner shall make the required personal appearance or telephone interview.
- 304 Each collaborative/consultative relationship shall include and implement a formal quality improvement program which shall be maintained on site and shall be available for inspection by representatives of the Mississippi State Board of Medical Licensure. This quality assurance/quality improvement program must be sufficient to provide a valid evaluation of the practice and be a valid basis for change, if any.

Re-evaluation of Nurse Practitioner Categories

- 400 Pursuant to authority granted in Mississippi Code, Section 73-15-5, the Mississippi State Board of Medical Licensure, along with the Mississippi Board of Nursing are granted authority to jointly promulgate rules and regulations governing nurse practitioners. In order to ensure the current nature and accuracy of said rules and regulations, the Board shall perform a review of said regulations every two (2) years. If changes are deemed necessary, joint action by the Board and Mississippi Board of Nursing shall be pursued.

Violation of Regulations

- 500 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulation

- 600 The above rules and regulations pertaining to collaborating/consulting physicians shall become effective September 21, 1991.

Amended May 19, 2005.

Chapter 10 The Supervision of Pharmacists

Preamble

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

Scope

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

Definitions

- 300 For the purpose of Chapter 10 only, the following terms have the meanings indicated:
1. "Physician" means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi.
 2. "Supervising Physician" means a physician who, pursuant to a duly executed written guideline or protocol as hereinafter defined, has agreed to supervise a pharmacist and is the physician responsible for the overall management and supervision for the activities of the pharmacist as is directly related to patients receiving medications or disease management services under the protocol.
 3. "Pharmacist" means any person licensed to practice pharmacy in the state of Mississippi, who has met all requirements of Article XXXVI of the rules and regulations of the Mississippi State Board of Pharmacy to either (i) accept patients referred by a physician, (ii) initiate or modify drug therapy, or (iii) order lab work, all in accordance with written guidelines or protocols as hereinafter defined.
 4. "Written Guideline or Protocol" means an agreement in which a physician authorized to prescribe drugs delegates to a pharmacist authority to consult with a patient or to conduct specific prescribing functions in an institutional setting, or with individual patients, provided that a specific protocol agreement is signed on each patient and is filed with the Mississippi State Board of Pharmacy as required by Mississippi Code, Section 73-21-73(jj) and is filed with this Board.

Board Review - Protocol Format

- 400 Before any physician shall execute a protocol to supervise a pharmacist in the care or consultation with a patient, or initiation and/or modification of prescription drug therapy, and/or ordering lab work, the supervising physician must jointly execute a written guideline or protocol with the pharmacist and thereafter file the same with the Mississippi State Board of Medical Licensure.
- 401 No protocol agreement authorizing the care or consultation with a patient, or initiation and/or modification of prescription drug therapy shall be executed by a physician unless the protocol shall meet at a minimum the following requirements:
1. Identifies the physician who agrees to supervise the pharmacist and the scope of the physician's active practice.
 2. Describes the specific responsibilities authorized by the supervising physician.

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

402 No protocol agreement authorizing the ordering of lab work by a pharmacist shall be executed by a physician unless the protocol shall meet at a minimum the following requirements:

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

and that any potential liability that may ensue as a result of implementing the protocol agreement, shall be covered by the malpractice liability insurance policies or endorsements thereto.

Supervising Physician Limited

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

Termination or Changes in the Protocol

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

Violation of Regulations/Disapproval of Supervision

700 Any violation of the rules and regulations as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Effective Date of Regulations

800 The above rules and regulations pertaining to supervising physicians shall become effective November 18, 1999.

Chapter 11 The Practice of Physician Assistants

Scope

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

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

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

Definitions

200 For the purpose of Chapter 11 only, the following terms have the meanings indicated:

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

Qualifications for Licensure

300 Pursuant to Section 73-43-11, Mississippi Code, all physician assistants who are employed as physician assistants by a Department of Veterans Affairs health care facility, a branch of the United States military, or the Federal Bureau of Prisons and who are practicing as physician assistants in a federal facility in Mississippi on July 1, 2000, and those physician assistants who trained in a Mississippi physician assistant program and have been continuously practicing as a physician assistant in Mississippi since 1976, shall be eligible for licensure if they submit an application for licensure to the Board by December 31, 2000, and meet the following additional requirements:

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
3. Pay the appropriate fee as determined by the Board.
4. Present a certified copy of birth certificate.
5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
6. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a physician assistant.
7. Provide favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
8. No basis or grounds exist for the denial of licensure as provided at Section 1500 below.

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

301 Before December 31, 2004, applicants for physician assistant licensure, except those licensed pursuant to the paragraph above, must be graduates of physician assistant

educational programs accredited by the Commission on Accreditation of Allied Health Educational Programs or its predecessor or successor agency, have passed the certification examination administered by the National Commission on Certification of Physician Assistants (NCCPA), have current NCCPA certification, and possess a minimum of a baccalaureate degree, and meet the following additional requirements:

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. Submit an application for license on a form supplied by the Board, completed in every detail with a recent photograph (wallet-size/passport type) attached. A Polaroid or informal snapshot will not be accepted.
3. Pay the appropriate fee as determined by the Board.
4. Present a certified copy of birth certificate.
5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage or other legal proceeding).
6. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a physician assistant.
7. Provide favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
8. No basis or grounds exist for the denial of licensure as provided at Section 1500 below.

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

302 On or after December 31, 2004, applicants for physician assistant licensure must meet the following requirements:

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. Complete an application for license and submit same to the Board in the manner prescribed by the Board with a recent passport type photograph.
3. Pay the appropriate fee as determined by the Board.
4. Present a certified copy of birth certificate or valid passport.
5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage license or other legal proceeding).
6. Possess a master's degree in a health-related or science field.
7. Successfully complete an educational program for physician assistants accredited by CAAHEP or its predecessor or successor agency.
8. Pass the certification examination administered by the NCCPA and have current NCCPA certification.
9. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a physician assistant.
10. Provide favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
11. Appear for a personal interview in the office of the Mississippi State Board of Medical Licensure and pass the Jurisprudence Examination as administered by the Board.
12. No basis or grounds exist for the denial of licensure as provided at Section 1500 below.

Temporary License

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

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

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

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

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

Requirement of Protocol - Prescribing/Dispensing

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

501 Except as hereinafter provided in Section 502 below, physician assistants may not write prescriptions for or dispense controlled substances or any other drug having addiction-forming or addiction-sustaining liability. A physician assistant may, however, administer such medications pursuant to an order by the supervising physician if in the protocol.

502 Prescribing Controlled Substances and Medications by Physician Assistants

1. Scope

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

2. Application for Authority to Prescribe Controlled Substances

a. Physician assistant applicants applying for controlled substance prescriptive authority must complete a Board approved educational program prior to making application.

b. In order to obtain the authority to prescribe controlled substances in any schedule, the physician assistant shall submit an application approved by the Board.

3. Incorporation of Physician Regulations Pertaining to Prescribing, Administering and Dispensing of Medication

- For the purpose of directing the manner in which physician assistants may prescribe controlled substances, the Board incorporates Chapter 25 of the Board's Regulations *Pertaining to Prescribing, Administering and Dispensing of Medication* as applied to physicians, including but not limited to all Definitions, Maintenance of Records and Inventories, Use of Diet Medication, Use of Controlled Substances for Chronic (Non-Terminal) Pain, and Prescription Guidelines. All physician assistants authorized to prescribe controlled substances shall fully comply with these regulations.
4. Registration for Controlled Substances Certificate Prescriptive Authority
 - a. Every physician assistant authorized to practice in Mississippi who prescribes any controlled substance must be registered with the U. S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.
 - b. Pursuant to authority granted in Mississippi Code, Section 41-29-125, the Board hereby adopts, in lieu of a separate registration with the Board, the registration with the U.S. Drug Enforcement Administration as required in Section 502.4.a. above, provided, however, where a physician assistant already possesses a controlled substances registration certificate for a practice location in another state or jurisdiction, the physician assistant may not transfer or otherwise use the same registration until he or she meets the training requirements set forth in Section 502.2.a. In the event, however, a physician assistant has had limitations or other restrictions placed upon his or her license wherein he or she is prohibited from handling controlled substances in any or all schedules, said physician assistant shall be prohibited from registering with the U. S. Drug Enforcement Administration for a Uniform Controlled Substances Registration Certificate without first being expressly authorized to do so by order of the Board.
 - c. The registration requirement set forth in these regulations does not apply to the distribution and manufacture of controlled substances. Any physician who engages in the manufacture or distribution of controlled substances or legend drugs shall register with the Mississippi State Board of Pharmacy pursuant to Mississippi Code, Section 73-21-105. For the purposes herein, "distribute" shall mean the delivery of a drug other than by administering, prescribing, or dispensing. The word "manufacture" shall have the same meaning as set forth in Mississippi Code, Section 73-21-105(q).
 5. Drug Maintenance, Labeling and Distribution Requirements
Persons registered to prescribe controlled substances may order, possess, prescribe, administer, distribute or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of these regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et. seq., except physician assistants may not receive samples of controlled substances. A physician assistant may receive and distribute pre-packaged medications or samples of non-controlled substances for which the physician assistant has prescriptive authority.

Supervision

- 600 Before any physician shall supervise a physician assistant, the physician must first (a) present to the Board's Executive Director a duly executed protocol, (b) appear personally before the Board or its Executive Director, and (c) obtain written approval to act as a supervising physician. The facts and matters to be considered by the Board when approving or disapproving a protocol or supervision arrangement shall include, but are

not limited to, how the supervising physician and physician assistant plan to implement the protocol, the method and manner of supervision, consultation, referral and liability.

- 601 Where two or more physicians anticipate executing a protocol to supervise a physician assistant, it shall not be necessary that all of the physicians personally appear before the Board or Executive Director as required in Section 600. In this situation, the physician who will bear the primary responsibility for the supervision of the physician assistant shall make the required personal appearance.

Supervising Physician Limited

- 700 No physician shall be authorized to supervise a physician assistant unless that physician holds an unrestricted license to practice medicine in the state of Mississippi.
- 701 Supervision means overseeing activities of, and accepting responsibility for, all medical services rendered by the physician assistant. Except as described in Section 702, supervision must be continuous, but shall not be construed as necessarily requiring the physical presence of the supervising physician.
- 702 New graduate physician assistants and all physician assistants newly practicing in Mississippi, except those licensed under Section 300, require the on-site presence of a supervising physician for one hundred twenty (120) days.
- 703 The physician assistant's practice shall be confined to the primary office or clinic of the supervising physician or any hospital(s) or clinic or other health care facility within the same community where the primary office is located, wherein the supervising physician holds medical staff privileges. Exceptions to this requirement may be granted on an individual basis, provided the location(s) of practice are set forth in the protocol.
- 704 The supervising physician must provide adequate means for communication with the physician assistant. Communication may occur through the use of technology which may include, but is not limited to, radio, telephone, fax, modem, or other telecommunication device.
- 705 The supervising physician shall, on at least a monthly basis, conduct a review of the records/charts of at least ten percent (10%) of the patients treated by the physician assistant, said records/charts selected on a random basis. During said review, the supervising physician shall note the medical and family histories taken, results of any and all examinations and tests, all diagnoses, orders given, medications prescribed, and treatments rendered. The review shall be evidenced by the supervising physician placing his or her signature or initials next to each of the above areas of review, and shall submit proof of said review to the Board upon request.

Number of Physician Assistants Supervised

- 800 No physician shall supervise more than two (2) physician assistants at any one time. A physician supervising two (2) nurse practitioners may not supervise a physician assistant.

Termination

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

Duty to Notify Board of Change of Address

- 1000 Any physician assistant who is licensed to practice as a physician assistant in this state and changes his or her practice location, shall immediately notify the Board in writing of the change of location. Failure to notify within 30 days could result in disciplinary action.

Continuing Education

- 1100 Each licensed physician assistant must show proof of completing 50 hours of CME each year, 20 hours of which must be Category 1, as defined by the Accreditation Council for Continuing Medical Education (ACCME). Physician assistants who are certified by the NCCPA may meet this requirement by providing evidence of current NCCPA certification.
- 1101 All physician assistants authorized to prescribe controlled substances must show proof of completing 50 hours of CME each year, 20 hours of which must be Category 1, as defined by the ACCME, and 10 hours of which must be related to the prescribing of medications with an emphasis on controlled substances.

Identification

- 1200 The supervising physician shall be responsible to ensure that any physician assistant under his or her supervision does not advertise or otherwise hold himself or herself out in any manner which would tend to mislead the general public or patients. Physician assistants shall at all times when on duty wear a name tag, placard or plate identifying themselves as physician assistants.
- 1201 Physician assistants may not advertise in any manner which implies that the physician assistant is an independent practitioner.
- 1202 A person not licensed as a physician assistant by the Board who holds himself or herself out as a physician assistant is subject to the penalties applicable to the unlicensed practice of medicine.

Physician Liability

- 1300 Prior to the supervision of a physician assistant, the physician's and/or physician assistant's insurance carrier must forward to the Board a Certificate of Insurance.

Renewal Schedule

- 1400 The license of every person licensed to practice as a physician assistant in the state of Mississippi shall be renewed annually.

- 1401 On or before May 1 of each year, the State Board of Medical Licensure shall mail an application for renewal of license to every physician assistant to whom a license was issued or renewed during the current licensing year. The applicant shall complete the application and return it to the Board before June 30 with documentation of completing each year 50 hours of CME and the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all physician assistants over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year.
- 1402 A physician assistant practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in Section 1401 may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and shall be assessed a fine of Twenty-five Dollars (\$25.00) plus an additional fine of Five Dollars (\$5.00) for each month thereafter that the license renewal remains delinquent.
- 1403 Any physician assistant not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in Section 1401 may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the arrearage for the previous five (5) years and the renewal fee for the current year.
- 1404 Any physician assistant who allows his or her license to lapse shall be notified by the Board within thirty (30) days of such lapse.
- 1405 Any person practicing as a physician assistant during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the same penalties as provided in Mississippi Code, Section 73-25-14.

Disciplinary Proceedings

- 1500 **Grounds for Disciplinary Action Against Physician Assistants**
For the purpose of conducting disciplinary actions against individuals licensed to practice as physician assistants, the Board hereby incorporates those grounds for the non-issuance, suspension, revocation, or restriction of a license or the denial of reinstatement or renewal of a license, as set forth in Mississippi Code, Sections 73-25-29 and 73-25-83. As a basis for denial, suspension, revocation or other restriction, the Board may initiate disciplinary proceedings based upon any one or more of those grounds as set forth in Sections 73-25-29 and 73-25-83, and may make provision for the assessment of costs as provided therein.
- 1501 **Hearing Procedure and Appeals**
No individual shall be denied a license or have his or her license suspended, revoked or restriction placed thereon, unless the individual licensed as a physician assistant has been given notice and opportunity to be heard. For the purpose of notice, disciplinary hearings and appeals, the Board hereby adopts and incorporates by reference all provisions of the

“Rules of Procedure” now utilized by the Board for those individuals licensed to practice medicine, osteopathic medicine, and podiatric medicine in the state of Mississippi.

1502 Reinstatement of License

1. A person whose license to practice as a physician assistant has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate his or her license after a period of one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Sections 93-11-157 or 93-11-163, as the case may be.
2. The petition shall be accompanied by two (2) or more verified recommendations from physicians or osteopaths licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he or she is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.

3. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, the offense for which he or she was disciplined, his or her activity during the time his or her certificate was in good standing, his or her general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Impaired Physician Assistants

- 1600 For the purpose of the Mississippi Disabled Physician Law, Mississippi Code, Sections 73-25-51 to 73-25-67, any individual licensed to practice as a physicians assistant, shall be subject to restriction, suspension, or revocation in the case of disability by reason of one or more of the following:

mental illness

physical illness, including but not limited to deterioration through the aging process, or loss of motor skills

excessive use or abuse of drugs, including alcohol

- 1601 If the Board has reasonable cause to believe that a physician assistant is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the physician assistant shall be made, and action taken, if any, in the manner as provided in Sections 73-25-55 through 73-25-65, including referral to the Mississippi Professionals Health Program, sponsored by the Mississippi State Medical Association.

Effective Date of Regulations

- 1700 The above rules and regulations pertaining to the practice of physician assistants shall become effective September 1, 2000; as amended September 16, 2004; as amended May 19, 2005; as amended March 8, 2007; as amended May 17, 2007.

Chapter 12 The Practice of Radiologist Assistants

Scope

- 100 The following regulations pertain to radiologist assistants performing any x-ray procedure or operating any x-ray equipment in a physician's office, hospital or clinical setting.
- 101 The radiologist assistant shall evaluate the day's schedule of procedures with the supervising radiologist and determine where the radiologist assistant's skills will be best utilized.
- 102 After demonstrating competency, the radiologist assistant when ordered to do so by the supervising radiologist may:
1. Perform selected procedures under the direct supervision of a radiologist including static and dynamic fluoroscopic procedures.
 2. Assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures.
 3. Evaluate image quality, make initial image observations and communicate observations of image quality to the supervising radiologist.
 4. Administer intravenous contrast media or other prescribed medications.
- 103 The radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.
- 104 The radiologist assistant shall adhere to the Code of Ethics of the American Registry of Radiologic Technologists and to national, institutional and/or departmental standards, policies and procedures regarding the standards of care for patients.

Definitions

- 200 For the purpose of Chapter 12 only, the following terms have the meanings indicated:
1. "A.R.R.T." - American Registry of Radiologic Technologists.
 2. "Full Certification" - Certification obtained by submitting certification issued by the A.R.R.T.
 3. "Radiologist" - A physician licensed by the Mississippi State Board of Medical Licensure who is certified or eligible to be certified by the American Board of Radiology or the American Osteopathic Board of Radiology.
 4. "Radiologist Assistant Certification" - Certification obtained by submitting proof of A.R.R.T. certification as a radiologist assistant which will enable the holder to perform any and all radiologist assistant procedures or functions as defined in Section 300 below in a radiology practice or radiologist's office.
 5. "Direct Supervision" - The radiologist must be present in the office suite and immediately available to furnish assistance and direction throughout the performance

of all procedures. “Direct supervision” does not mean that the supervising radiologist must be present in the room when the procedure is performed.

Qualifications for Licensure

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

1. Satisfy the Board that he or she is at least twenty-one (21) years of age and of good moral character.
2. Submit an application for license on a form supplied by the Board, completed in every detail with a recent passport type photograph.
3. Pay the appropriate fee as determined by the Board.
4. Present a certified copy of birth certificate or valid passport.
5. Submit proof of legal change of name if applicable (notarized or certified copy of marriage license or other legal proceeding).
6. Provide information on registration or licensure in all other states where the applicant is or has been registered or licensed as a radiologist assistant.
7. Must have favorable references from two (2) physicians licensed in the United States with whom the applicant has worked or trained.
8. No basis or grounds exist for the denial of licensure as provided at Section 1000 below.

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

Supervision

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

Duty to Notify Board of Change of Address

500 Any radiologist assistant who is licensed or receives a license to practice as a radiologist assistant in this state and thereafter changes his or her practice location from what was noted in the application upon which he or she received a license, shall immediately notify the Board in writing of the change of location. Failure to notify within 30 days could result in disciplinary action.

Continuing Education

- 600 Biennially attend and complete at least twenty-four (24) hours of radiological related continuing education courses sponsored or approved by any of the following organizations:
1. Mississippi Society of Radiologic Technologists
 2. Mississippi Radiological Society
 3. Mississippi Medical Association or Mississippi Osteopathic Medical Association
 4. American Medical Association or American Osteopathic Association
 5. American Society of Radiologic Technologists
 6. American Registry of Radiologic Technologists
 7. American College of Radiology or American Osteopathic College of Radiology

Identification

- 700 The supervising physician shall be responsible to ensure that any radiologist assistant under his or her supervision does not advertise or otherwise hold himself or herself out in any manner which would tend to mislead the general public or patients. Radiologist assistants shall at all times when on duty wear a name tag, placard or plate identifying themselves as radiologist assistants.
- 701 Radiologist assistants may not advertise in any manner which implies that the radiologist assistant is an independent practitioner.
- 702 A person not licensed as a radiologist assistant by the Board who holds himself or herself out as a radiologist assistant is subject to the penalties applicable to the unlicensed practice of medicine.

Physician Liability

- 800 Prior to the supervision of a radiologist assistant, the physician's and/or radiologist assistant's insurance carrier must forward to the Board a Certificate of Insurance.

Renewal Schedule

- 900 The license of every person licensed to practice as a radiologist assistant in the state of Mississippi shall be renewed annually.
- 901 On or before May 1 of each year, the State Board of Medical Licensure shall mail an application for renewal of license to every radiologist assistant to whom a license was issued or renewed during the current licensing year. The applicant shall complete the application and return it to the Board before June 30 and the renewal fee of an amount established by the Board. The payment of the annual license renewal fee shall be optional with all radiologist assistants over the age of seventy (70) years. Upon receipt of the application and fee, the Board shall verify the accuracy of the application and issue to applicant a certificate of renewal for the ensuing year, beginning July 1 and expiring June 30 of the succeeding calendar year. Such renewal shall render the holder thereof a licensed radiologist assistant as stated on the renewal form.
- 902 A radiologist assistant practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in Section 901 may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the renewal fee for the current year, and shall be assessed a fine of

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

- 903 Any radiologist assistant not practicing in Mississippi who allows his or her license to lapse by failing to renew the license as provided in Section 901 may be reinstated by the Board on satisfactory explanation for such failure to renew, by completion of a reinstatement form, and upon payment of the arrearage for the previous five (5) years and the renewal fee for the current year.
- 904 Any radiologist assistant who allows his or her license to lapse shall be notified by the Board within thirty (30) days of such lapse.
- 905 Any person practicing as a radiologist assistant during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the same penalties as provided at Mississippi Code, Section 73-25-14.

Disciplinary Proceedings

1000 Grounds for Disciplinary Action Against Radiologist Assistants

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

1001 Hearing Procedure and Appeals

No individual shall be denied a license or have his or her license suspended, revoked or restriction placed thereon, unless the individual licensed as a radiologist assistant has been given notice and opportunity to be heard. For the purpose of notice, disciplinary hearings and appeals, the Board hereby adopts and incorporates by reference all provisions of the "Rules of Procedure" now utilized by the Board for those individuals licensed to practice medicine, osteopathic medicine, and podiatric medicine in the state of Mississippi.

1002 Reinstatement of License

1. A person whose license to practice as a radiologist assistant has been revoked, suspended, or otherwise restricted may petition the Mississippi State Board of Medical Licensure to reinstate his or her license after a period of not less than one (1) year has elapsed from the date of the revocation or suspension. The procedure for the reinstatement of a license that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Sections 93-11-157 or 93-11-163, as the case may be.
2. The petition shall be accompanied by two (2) or more verified recommendations from physicians or osteopaths licensed by the Board of Medical Licensure to which the petition is addressed and by two (2) or more recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed and such facts as may be required by the Board of Medical Licensure.

- The petition may be heard at the next regular meeting of the Board of Medical Licensure but not earlier than thirty (30) days after the petition was filed. No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which he or she is under probation or parole. The hearing may be continued from time to time as the Board of Medical Licensure finds necessary.
3. In determining whether the disciplinary penalty should be set aside and the terms and conditions, if any, which should be imposed if the disciplinary penalty is set aside, the Board of Medical Licensure may investigate and consider all activities of the petitioner since the disciplinary action was taken against him or her, the offense for which he or she was disciplined, his or her activity during the time his or her certificate was in good standing, his or her general reputation for truth, professional ability and good character; and it may require the petitioner to pass an oral examination.

Impaired Radiologist Assistants

- 1100 For the purpose of the Mississippi Disabled Physician Law, Mississippi Code, Sections 73-25-51 to 73-25-67, any individual licensed to practice as a radiologist assistant shall be subject to restriction, suspension, or revocation in the case of disability by reason of one or more of the following:
- Mental illness
 - Physical illness, including but not limited to deterioration through the aging process, or loss of motor skills
 - Excessive use or abuse of drugs, including alcohol
- 1101 If the Board has reasonable cause to believe that a radiologist assistant is unable to practice with reasonable skill and safety to patients because of one or more of the conditions described above, referral of the radiologist assistant shall be made, and action taken, if any, in the manner as provided in Sections 73-25-55 through 73-25-65, including referral to the Mississippi Professionals Health Program, sponsored by the Mississippi State Medical Association.

Effective Date of Regulations

- 1200 The above rules and regulations pertaining to the practice of radiologist assistants shall become effective upon adoption.

Adopted November 16, 2005. Amended July 20, 2006.

Chapter 13 The Practice by Unlicensed Nonresident Physicians

Scope

- 100 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.

Purpose

200 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.

Notification to Board Required

300 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:

1. 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.
2. 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.
3. The non-resident unlicensed physician shall submit to the Board written proof of licensure status in good standing from another state or jurisdiction.

Intent

400 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.

Exclusion

500 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.

Effective Date of Regulation

600 The above rules and regulations pertaining to the practice by unlicensed nonresident physicians shall become effective August 22, 2002.

Amended October 19, 2002

Chapter 14 Surgery/Post-Operative Care

Scope

100 The following regulation sets forth the policies of the Mississippi State Board of Medical Licensure regarding post-operative surgical care rendered by individuals licensed to practice medicine, osteopathic medicine and podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 14 only, the following terms have the meanings indicated:
1. “Auxiliary” or “Auxiliaries” shall include, but is not limited to, registered nurses, licensed practical nurses, certified nursing assistants, physical therapists, nurse practitioners and optometrists.
 2. “Under the supervision” means to critically watch, direct, advise and oversee, and to inspect and examine the actions of another health care practitioner.
 3. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 4. “Surgery” means any invasive procedure which results in the projection into (i.e. laser surgery), entering, cutting or suturing of tissue or any body organ.

Informed Consent

300 The ultimate responsibility for diagnosing medical and surgical problems is that of the licensed physician. In addition, it is the responsibility of the operating physician to explain the procedure and to obtain informed consent of the patient. It is not necessary, however, that the operating physician obtain or witness the signature of a patient on a written form evidencing informed consent.

Post-Surgical Care

400 The management of post-surgical care is the responsibility of the operating physician. The operating physician should provide those aspects of post-surgical care which are within the unique competence of the physician. Patients are best served by having post-surgical care conducted by the physician who best knows their condition—the operating physician.

401 Where the operating physician cannot personally provide post-surgical care, the physician must arrange before surgery for post-surgical care to be performed by another qualified physician who is acceptable to the patient. In this case, the operating physician may delegate discretionary post-operative activities to an equivalently trained licensed physician. Like the operating physician, the physician to whom a patient has been referred for post-surgical care should provide, at a minimum, those aspects of post-surgical care that are not permitted to be performed by auxiliaries.

402 Unless otherwise provided by law, delegation of post-surgical activities to an auxiliary is permitted only if the auxiliary is under the supervision of the operating physician or the physician to whom the operating physician has referred a patient for post-surgical care. While an auxiliary may be authorized by law to provide certain aspects of post-surgical care, this does not relieve the operating physician of his or her responsibility to provide post-surgical care or arrange for the delegation of post-surgical care, when appropriate, as required by Section 401 above.

- 403 Those aspects of post-surgical care which may be delegated to an auxiliary must be determined on a case-by-case basis, but shall be limited to those procedures which the auxiliary is authorized by law to perform and within the unique competence and training of the auxiliary.

Effective Date of Regulation

- 500 The rules and regulations pertaining to Surgery/Post-Operative Care shall become effective October 23, 1994.

Chapter 15 Office Based Surgery

Scope

- 100 This regulation sets forth the policies of the Mississippi State Board of Medical Licensure regarding office based surgery rendered by individuals licensed to practice medicine, osteopathic medicine and podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 15 only, the following terms have the meanings indicated:
1. “Surgery” is defined as any operative procedure, including the use of lasers, performed upon the body of a living human being for the purposes of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes, to include, but not be limited to: incision or curettage of tissue or organ; suture or other repair of tissue or organ, including a closed as well as an open reduction of a fracture; extraction of tissue including premature extraction of the products of conception from the uterus; insertion of natural or artificial implants; or an endoscopic procedure. The use of local, general or topical anesthesia and/or intravenous sedation is the prerogative of the surgeon.
 2. “Surgeon” is defined as a licensed physician performing any procedure included within the definition of surgery.
 3. Implicit within the use of the term of “equipment” is the requirement that the specific item named must meet current performance standards.
 4. “Office surgery” is defined as surgery which is performed outside a hospital, an ambulatory surgical center, abortion clinic, or other medical facility licensed by the Mississippi State Department of Health or a successor agency. Physicians performing Level II or Level III office based surgery must register with the Mississippi State Board of Medical Licensure. A copy of the registration form is attached hereto (Appendix A).
 5. A “Surgical Event” for the purpose of this regulation is recognized as a potentially harmful or life-threatening episode related to either the anesthetic or the surgery. Any “Surgical Event” in the immediate peri-operative period that must be reported are those which are life-threatening, or require special treatment, or require hospitalization, including, but not limited to the following: (1) serious cardiopulmonary or anesthetic events; (2) major anesthetic or surgical complications; (3) temporary or permanent disability; (4) coma; or (5) death.

General Requirements for Office Surgery

- 300 For all surgical procedures, the level of sterilization shall meet current OSHA requirements.
- 301 The surgeon must maintain complete records of each surgical procedure, including anesthesia records, when applicable and the records on all Level II and Level III cases shall contain written informed consent from the patient reflecting the patient's knowledge of identified risks, consent to the procedure, type of anesthesia and anesthesia provider.
- 302 The surgeon must maintain a log of all Level II and Level III surgical procedures performed, which must include a confidential patient identifier, the type of procedure, the type of anesthesia used, the duration of the procedure, the type of post-operative care, and any surgical events. The log and all surgical records shall be provided to investigators of the Mississippi State Board of Medical Licensure upon request.
- 303 In any liposuction procedure, the surgeon is responsible for determining the appropriate amount of supernatant fat to be removed from a particular patient. Using the tumescent method of liposuction, it is strongly recommended that a reasonable amount of fat should be removed in the office setting, i.e., a range of 4000cc to 5000cc of supernatant fat in a 70 Kg patient with a BMI (body mass index) of less than 30. This range should be adjusted downward in thin patients (less than 25 BMI) and upward in obese patients (over 30 BMI). Morbidly obese patients should preferably have liposuction performed in the hospital setting.
- 304 A policy and procedure manual must be maintained in the office and updated annually. The policy and procedure manual must contain the following: duties and responsibilities of all personnel, cleaning and infection control, and emergency procedures. This shall not apply to offices that limit surgery to Level I procedures.
- 305 The surgeon shall report to the Mississippi State Board of Medical Licensure any surgical events that occur within the office based surgical setting. This report shall be made within 15 days after the occurrence of a surgical event. A suggested form for reporting is attached hereto (Appendix B). The filing of a report of surgical event as required by this section does not, in and of itself, constitute an acknowledgment or admission of malpractice, error, or omission. Upon receipt of the report, the Board may, in its discretion, obtain patient and other records pursuant to authority granted in Mississippi Code, Section 73-25-28.
- 306 The surgeon's office must have a written response plan for emergencies within their facility.
- 307 In offices where Level II and Level III office based surgery is performed, a sign must be prominently posted in the office which states that the office is a doctor's office regulated pursuant to the rules and regulations of the Mississippi State Board of Medical Licensure. This notice must also appear prominently within the required patient informed consent.
- 308 It is strongly recommended that the American Society of Anesthesiologists' *Guidelines for Office-Based Anesthesia* and/or *American Association of Nurse Anesthetists' Standards for Office Based Anesthesia* be utilized for Level III procedures.

Level I Office Surgery

400 Scope

Level I office surgery includes, but not limited to, the following:

1. Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas, Loop Electrosurgical Excision Procedures (LEEP), laser cone of cervix, laser/cautery ablation of warts or other lesions, and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia not involving drug-induced alteration of consciousness.
2. Incision and drainage of superficial abscesses, limited endoscopies such as proctoscopies, flexible sigmoidoscopies, hysteroscopies, skin biopsies, arthrocentesis, paracentesis, dilation of urethra, cysto-scopic procedures, and closed reduction of simple fractures or small joint dislocations (i.e., finger and toe joints).
3. Pre-operative medications not required or used other than minimal pre-operative tranquilization of the patient; anesthesia is local, topical, or none. No drug-induced alteration of respiratory effort or consciousness other than minimal pre-operative tranquilization of the patient is permitted in Level I Office Surgery.
4. Chances of complication requiring hospitalization are remote.

401 Standards for Level I Office Surgery

1. Training Required

The surgeon's continuing medical education should include proper dosages and management of toxicity or hypersensitivity to regional anesthetic drugs. Basic Life Support Certification is required.

2. Equipment and Supplies Required

Oral airway, positive pressure ventilation device, Epinephrine (or other vasopressor), Corticoids, Antihistamine and Atropine, if any anesthesia is used. The equipment and supplies should reflect the patient population, i.e., pediatrics, etc.

3. Assistance of Other Personnel Required

No other assistance is required, unless the specific surgical procedure being performed requires an assistant.

Level II Office Surgery

500 Scope

1. Level II Office Surgery is that in which peri-operative medication and sedation are used orally, intravenously, intramuscularly, or rectally, thus making intra and post-operative monitoring necessary. Such procedures shall include, but not be limited to: hernia repair, hemorrhoidectomy, reduction of simple fractures, large joint dislocations, breast biopsies, dilatation and curettage, thoracentesis, and colonoscopy.
2. Level II Office surgery includes any surgery in which the patient is placed in a state which allows the patient to tolerate unpleasant procedures while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal command and/or tactile stimulation. Patients whose only response is reflex withdrawal from a painful stimulus are sedated to a greater degree than encompassed by this definition.
3. Any procedures that may yield an excessive loss of blood should be covered under Level II.

501 Transfer Agreement Required

The surgeon must have a written transfer agreement from a licensed hospital within reasonable proximity if the surgeon does not have staff privileges to perform the same

procedure as that being performed in the office based surgical setting at a licensed hospital within reasonable proximity.

502 Level of Anesthetic

Local or peripheral major nerve block, including Bier Block, plus intravenous or intramuscular sedation, but with preservation of vital reflexes.

503 Training Required

To perform office based surgery, the physician must be able to document satisfactory completion of surgical training such as Board certification or Board eligibility by a Board approved by the American Board of Medical Specialties or American Board of Osteopathic Specialties. Alternative credentialing for procedures outside the physician's core curriculum must be applied for through the Mississippi State Board of Medical Licensure and reviewed by a multi-specialty board appointed by the Director. The surgeon and one attending assistant must be certified in Basic Life Support. It is recommended that the surgeon and at least one assistant be certified in Advanced Cardiac Life Support or have a qualified anesthetic provider, practicing within the scope of the provider's license, manage the anesthetic.

504 Equipment and Supplies Required

1. Full and current crash cart at the location the anesthetizing is being carried out. The crash cart must include, at a minimum, the following resuscitative medications, or other resuscitative medication subsequently marketed and available after initial adoption of this regulation, provided said medication has the same FDA approved indications and usage as the medications specified below:
 - a. Adrenalin (epinephrine) Abboject 1mg-1:10,000; 10ml
 - b. Adrenalin (epinephrine) ampules 1mg-1:1000; 1ml
 - c. Atropine Abboject 0.1mg/ml; 5ml
 - d. Benadryl (diphenhydramine) syringe 50mg/ml; 1ml
 - e. Calcium chloride Abboject 10%; 100mg/ml; 10ml
 - f. Dextrose Abboject 50%; 25g/50ml
 - g. Dilantin (phenytoin) syringe 250mg/5ml
 - h. Dopamine 400mg/250ml pre-mixed
 - i. Heparin 10,000 units/ml; 1 ml vial
 - j. Inderal (propranolol) 1mg/ml; 1 ml ampule
 - k. Isuprel (isoproterenol) 1mg/5ml; 1:5000 ampule
 - l. Lanoxin (digoxin) 0.5 mg/2ml ampule
 - m. Lasix (furosemide) 40 mg/4ml vial
 - n. Lidocaine Abboject 2%; 100mg/5ml
 - o. Lidocaine 2 grams/500ml pre-mixed
 - p. Magnesium sulfate 50%; 20ml vial (1g/2ml)
 - q. Narcan (naloxone) 0.4mg/ml; 1ml ampule
 - r. Pronestyl (procainamide) 100mg/ml; 10ml vial
 - s. Romazicon 5ml or 10 ml (0.1mg/ml)
 - t. Sodium bicarbonate Abboject 50mEq/50ml
 - u. Solu-medrol (methylprednisolone) 125mg/2ml vial
 - v. Verapamil syringe 5mg/2ml

The above dosage levels may be adjusted, depending on ages of the patient population.
2. Suction devices, endotracheal tubes, laryngoscopes, etc.
3. Positive pressure ventilation device (e.g., Ambu) plus oxygen supply.

4. Double tourniquet for the Bier Block procedure.
5. Monitors for blood pressure/EKG/Oxygen saturation and portable approved defibrillator.
6. Emergency intubation equipment.
7. Adequate operating room lighting. Emergency power source able to produce adequate power to run required equipment for a minimum of two (2) hours, which would require generator on site.
8. Appropriate sterilization equipment.
9. IV solution and IV equipment.

505 Assistance of Other Personnel Required

The surgeon and at least one attending assistant must be certified in Basic Life Support. It is recommended that the surgeon and at least one assistant be certified in Advanced Cardiac Life Support. A registered nurse may only administer analgesic doses of anesthetic agents under the direct order of a physician. An assisting anesthesia provider cannot function in any other capacity during the procedure. If additional assistance is required by the specific procedure or patient circumstances, such assistance must be provided by a physician, registered nurse, licensed practical nurse, or operating room technician. Surgeon must have a written agreement with a qualified support physician with hospital privileges within reasonable proximity to cope with any problems that may arise if the surgeon performing the procedure does not have such privileges.

Level III Office Surgery

600 Scope

1. Level III Office Surgery is that surgery which involves, or reasonably should require, the use of a general anesthesia or major conduction anesthesia and pre-operative sedation. This includes the use of:
 - a. Intravenous sedation beyond that defined for Level II office surgery;
 - b. General Anesthesia: loss of consciousness and loss of vital reflexes with probable requirement of external support of pulmonary or cardiac functions; or
 - c. Major Conduction anesthesia.
2. Only patients classified under the American Society of Anesthesiologist's (ASA) risk classification criteria as Class I, II, or III are appropriate candidates for Level III office surgery. For ASA Class III patients, the surgeon must document in the patient's record the justification and precautions that make the office an appropriate forum for the particular procedure to be performed.

601 Transfer Agreement Required

The surgeon must have a written transfer agreement from a licensed hospital within reasonable proximity if the surgeon does not have staff privileges to perform the same procedure as that being performed in the office based surgical setting at a licensed hospital within reasonable proximity.

602 Level of Anesthetic

1. General Anesthetic: loss of consciousness and loss of vital reflexes with probable requirement of external support of pulmonary or cardiac functions.
2. Major Conduction: epidural, spinal, caudal.

603 Training Required

1. To perform office based surgery, the physician must be able to document satisfactory completion of surgical training such as board certification or board eligibility by a board approved by the American Board of Medical Specialties or American Board of Osteopathic Specialities. Alternative credentialing for procedures outside the physician's core curriculum must be applied for through the Mississippi State Board of Medical Licensure and reviewed by a multi-specialty board appointed by the Executive Director.
2. The surgeon and at least one attending assistant must be certified in Basic Life Support. It is recommended that the surgeon and at least one assistant be certified in Advanced Cardiac Life Support.
3. Emergency procedures related to serious anesthesia complications should be formulated, periodically reviewed, practiced, updated, and posted in a conspicuous location.

604 Equipment and Supplies Required

1. Equipment, medication, including at least 12 ampules of dantrolene on site (in cases involving general inhalation or general endotracheal anesthesia), and monitored post-anesthesia recovery must be available in the office.
2. The office, in terms of general preparation, equipment, and supplies, must be comparable to a free standing ambulatory surgical center, including, but not limited to, recovery capability, and must have provisions for proper record keeping.
3. Blood pressure monitoring equipment; EKG; end tidal CO2 monitor; pulse oximeter, precordial or esophageal stethoscope, emergency intubation equipment and a temperature monitoring device.
4. Table capable of trendelenburg and other positions necessary to facilitate the surgical procedure.
5. IV solutions and IV equipment.
6. All equipment and supplies listed under Level II (Section 504).

605 Assistance of Other Personnel Required

An anesthesiologist or certified registered nurse anesthetist must administer the general or regional anesthesia and a physician, registered nurse, licensed practical nurse, or operating room technician must assist with the surgery. The anesthesia provider cannot function in any other capacity during the procedure. A licensed physician or a licensed registered nurse with post-anesthesia care unit experience or the equivalent, and credentialed in Advanced Cardiac Life Support, or in the case of pediatric patients, Pediatric Advanced Life Support, must be available to monitor the patient in the recovery room until the patient has recovered from anesthesia.

Effective Date of Regulation

- 700 The above rules and regulations pertaining to office based surgery shall become effective June 1, 2002.

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

Chapter 16 Laser Devices

- 100 The use of laser, pulsed light or similar devices, either for invasive or cosmetic procedures, is considered to be the practice of medicine in the state of Mississippi and therefore such use shall be limited to physicians and those directly supervised by

physicians, such that a physician is on the premises and would be directly involved in the treatment if required.

**Adopted March 18, 1999. Amended May 19, 2005. Amended January 18, 2007.
Amended March 8, 2007. Amended May 17, 2007.**

Chapter 17 Acupuncture

100 Acupuncture may be performed in the state of Mississippi only by a physician (1) licensed to practice medicine or surgery in the state, and (2) adequately trained in the above subject. Such licensed individuals wishing to utilize acupuncture in their practice may do so provided that any and all portions of the acupuncture treatment are performed by the person so licensed and no surrogate is authorized in this State to serve in his or her stead. The practice of acupuncture should follow the same quality of standard that the physician, or any other physician in his or her community, would render in delivering any other medical treatment.

Adopted January 20, 2000.

Chapter 18 Chelation Therapy

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

Adopted July 18, 2002.

Chapter 19 Emergency Telemedicine

Scope

100 These regulations apply to only those individuals licensed to practice medicine or osteopathic medicine in the state of Mississippi and who are performing duties as employees of the University of Mississippi Medical Center. This regulation does not authorize any communication across state lines.

Definitions

- 200 For the purpose of Chapter 19 only, the following terms have the meanings indicated:
1. “Physician” means any person licensed to practice medicine or osteopathic medicine in the state of Mississippi.
 2. “Telemedicine” is the diagnosis or treatment of human injury, illness and diseases using interactive audio, video or data communications by electronic or other means.
 3. “Teleemergency medicine” is a unique combination of telemedicine and the collaborative/supervisory role of a physician board certified in emergency medicine, and an appropriate skilled health professional (nurse practitioner or physician assistant).

Board Review

- 300 The same requirements as outlined in Chapter 09 shall apply.

Collaborative/Supervising Physician Limited

- 400 No physician practicing teleemergency medicine shall be authorized to function in a collaborative/supervisory role as outlined in Chapter 09 unless his or her practice location is a level 1 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.

Reporting Requirements

- 500 Quarterly reports detailing quality assurance activities, adverse or sentinel events shall be submitted for review to the Mississippi State Board of Medical Licensure. The Board of Nursing requires, in addition to these regulations, submission of quarterly reports to the Board of Nursing and reserves the right to re-evaluate and change reporting requirements, if need be.

Effective Date of Regulation

- 600 The above rules and regulations pertaining to teleemergency medicine shall become effective October 18, 2002.

Amended October 15, 2003. Amended November 4, 2004. Amended January 30, 2006.

Chapter 20 Electromyography

General

- 100 Electromyography (EMG) falls into two primary categories: needle electromyography testing and nerve conduction testing. Needle electromyography testing involves insertion of needle electrodes into skeletal muscles and concurrent observation of the electrical activity in those muscles by means of an oscilloscope and a loudspeaker. Nerve conduction testing is performed using the same equipment, but consists of surface

stimulation or needle stimulation of peripheral nerves with an evaluation of the motor and/or sensory action potentials produced.

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

Delegation of EMG Procedures

- 200 Electromyography is an extension of the history and physical examination and must be considered only in the light of the clinical finding. The person performing electromyography must be able to elicit the pertinent history and perform the necessary examination to define the clinical problems. Differential diagnoses must be considered, and as abnormalities unfold or fail to unfold during the course of testing, the electromyographic procedure may be modified until a probable diagnosis is reached. Results of electromyographic examinations are used for recommending surgical procedures and for determining the absence of disease with most serious prognoses.
- 201 EMG test procedures do not follow any stereotyped pattern, and electromyography is almost impossible to standardize, including both needle explorations and nerve conduction testing. Collection of clinical and electrophysiologic data during EMG test procedures should be done by a qualified electrodiagnostic (EDX) physician consultant, but collection of some data can be delegated to a specifically trained non-physician or physician in a residency training program or fellowship. This is to be done under the direct supervision of the EDX qualified physician consultant, whose presence is not required in the room where the procedure is being performed, but must be immediately available within the same building, in order to furnish the non-physician employee (or other physician) with assistance and direction, if needed, throughout the performance of the entire procedure.

Adopted November 20, 2003.

Chapter 21 Internet Prescribing

- 100 Essential components of proper prescribing and legitimate medical practice require that the physician obtains a thorough medical history and conducts an appropriate physical and/or mental examination before prescribing any medication for the first time.
- 101 Exceptions to this circumstance that would be permissible may include, but not be limited to: admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.
- 102 Prescribing drugs to individuals that the physician has never met and based solely on answers to a set of questions, as is found in Internet or toll-free telephone prescribing, is inappropriate, fails to meet a basic standard of care that potentially places patient's health at risk and could constitute unprofessional conduct punishable by disciplinary action.

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

Chapter 22 Medical Expert Activities by Physicians

Authority and Purpose

100 The Mississippi State Board of Medical Licensure (hereinafter referred to as “the Board”) adopts these regulations governing medical expert activities by physicians pursuant to Chapters 25 and 43 of Title 73 of the Mississippi Code. The Mississippi State Board of Medical Licensure finds it necessary to fulfill its statutory responsibilities by adopting these regulations in order to protect the public, to set professional standards, to enforce the provisions of law regarding the performance of medical expert activities by physicians, and to further other legitimate government purposes in the public interest.

Scope

200 These regulations apply to any physician who performs medical expert activities regarding any person, facility, or entity located within the state of Mississippi, or regarding an event alleged to have occurred within the state of Mississippi, regardless of the location, type, or status of the physician’s medical expert activity, the presence or absence of the physician expert’s license to practice medicine in Mississippi, the physician expert’s presence or absence of a physician-patient relationship in Mississippi, the type of medical expert activity performed (e.g., oral testimony or a written statement), or the setting in which the medical expert activity is performed (e.g., a state or federal court or administrative agency).

201 No part of these regulations is intended to conflict with or supercede the authority of any state or federal court or administrative agency to designate a physician as a medical expert in a legal matter then pending before the court or agency. The Board does not intend for these regulations to conflict with or supercede the description or regulation of the function of a physician serving as an “expert” as that term is used in the Mississippi Rules of Evidence or in other provisions of law, rules, regulations, or decisions of any court or administrative agency.

202 No part of these regulations is intended to conflict with or supercede the authority of a person other than a physician to serve as an expert in a legal matter. Furthermore, the Board does not intend for these regulations to have any effect on physicians’ participation in legal proceedings in a capacity other than as a medical expert.

Definition of Medical Expert Activities

300 For the purposes of these regulations only, the Mississippi State Board of Medical Licensure has determined that the definition of the term “medical expert activities” includes, but is not limited to, the use of medical knowledge and professional judgment by a physician to:

1. Suggest or recommend to a person any medical advice or other agency (whether material or not material).
2. Perform medical services (including, but not limited to, a physical or mental examination of a person).
3. Conduct a review of a person’s medical record.
4. Serve as a medical consultant.

5. Render a medical opinion concerning the diagnosis or treatment of a person.
6. Produce a written medical expert opinion report, affidavit, or declaration.
7. Give testimony under oath as a medical expert at a state or federal hearing, deposition, trial, administrative agency proceeding, alternative dispute resolution proceeding, or any other legal proceeding, regarding the medical issues in a legal matter or claim for injuries that is then pending in a court or administrative agency, or which may be filed or asserted whether or not such claim ever results in a pending legal matter and which involves a person, facility, or entity located within the state of Mississippi, or an event alleged to have occurred within the state of Mississippi.

Licensure and Qualification Requirements

- 400 Except as otherwise provided by law, rule or regulation of this state, any medical expert activity by a physician regarding a legal matter pending in a state or federal court or administrative agency in Mississippi must be performed by a physician who holds a current unrestricted medical license in Mississippi, another state or foreign jurisdiction, and who has the qualifications to serve as a medical expert on the issue(s) in question by virtue of knowledge, skill, experience, training, or education. This rule does not supercede the policies and regulations of the Board in regards to unreferral diagnostic screening tests.
- 401 The practice of any physician not licensed in Mississippi that meets the licensure and qualification requirements stated in Section 400 of this regulation shall be deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice, without any need for licensure verification or further requirement for licensure. In accordance with the provisions of law in Mississippi, any physician not licensed in Mississippi whose practice is deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice shall be subject to regulation by the Board regarding the physician's performance of such medical expert activities in the state of Mississippi.

Professional Standards

- 500 Any physician who performs medical expert activities must:
1. Comply with these regulations and all applicable provisions of Mississippi law (e.g., statutes, court rules and decisions, and other administrative agency rules and regulations) with regard to the performance of medical expert activities.
 2. Comply with medical ethics principles, including, but not limited to, ethics principles established by the American Medical Association and relevant medical specialty associations.
 3. Be honest in all professional interactions involving his or her medical expert activities.
 4. Not accept payment for medical expert activities that is contingent upon the result or content of any medical diagnosis, opinion, advice, services, report, or review; or that is contingent upon the outcome of any case, claim, or legal matter then pending or contemplated.
 5. Not make or use any false, fraudulent, or forged statement or document.

Professional Accountability for Violation of Regulations

- 600 Any physician who performs medical expert activities, whether or not licensed to practice medicine in Mississippi, may be disciplined or otherwise held professionally accountable by the Board, upon a finding by the Board that the physician is unqualified as evidenced by behavior including, but not limited to, incompetent professional practice, unprofessional conduct, or any other dishonorable or unethical conduct likely to deceive, defraud, or harm the public.
- 601 Any violation of Section 500 of this regulation as enumerated above shall constitute unprofessional conduct in violation of Mississippi Code, Section 73-25-29(8).

Complaint Procedure, Investigation, Due Process, and Actions Available to the Board

- 700 Any person who has reason to believe that any physician may have failed to comply with any part of these regulations in the performance of medical expert activities may make a complaint to the Mississippi State Board of Medical Licensure on a complaint form that is furnished by the Board.
- 701 Any physician, whether or not licensed to practice medicine in Mississippi, who performs medical expert activities in the context of a legal matter regarding any person, facility, entity, or event located within the state of Mississippi may be subject to an investigation by the Mississippi State Board of Medical Licensure upon the receipt of a complaint regarding the physician's conduct or practice. Any such physician shall be afforded the due process procedures of the law and Board regulations. The Board, in its sole discretion, may refer the complaint to the medical licensure authority of another state, or to any other appropriate legal authority.
- 702 Any physician may request, or may be summoned by the Board, to appear before the Board at a hearing to consider the physician's compliance with these regulations. Any physician's failure to appear when summoned to a hearing may be deemed by the Board to be a waiver of the physician's due process opportunity to appear before the Board and may result in a finding by the Board that the physician is out of compliance with these regulations *in absentia*.
- 703 In disciplining a physician licensed to practice medicine in Mississippi or otherwise holding any physician professionally accountable pursuant to these regulations and to the statutes, rulings, and other regulations and provisions of Mississippi law, the actions that the Mississippi State Board of Medical Licensure may take include, but are not limited to, one or more of the following:
1. Denying, suspending, restricting, or revoking a Mississippi license to practice medicine.
 2. Administering a public or private reprimand to a Mississippi licensed physician.
 3. Assessing up to \$10,000 of the reasonable investigation costs expended by the Board in investigating a Mississippi licensed physician.
 4. Moving for an injunction in Chancery Court to prohibit any physician's further performance of medical expert activities.
 5. Petitioning the Chancery Court to cite any noncompliant physician for contempt of court.
 6. Referring the matter to another medical licensure authority or other legal authority for action regarding any physician.
 7. Any other action regarding any physician that the Board may deem proper under the circumstances (e.g., issuing an advisory letter of concern; issuing a notice of warning;

issuing a cease and desist notice; or adopting a resolution of disapproval of any physician's medical expert activities).

- 704 Any physician who is found by the Mississippi State Board of Medical Licensure to have failed to comply with any part of these regulations may be reported by the Board to any person or organization appropriate under the circumstances in order to enforce or comply with the law or to protect the public, including, but not limited to, the National Practitioner Data Bank, the U.S. Department of Health and Human Services Office of the Inspector General, the Centers for Medicare and Medicaid Services, the Federation of State Medical Boards, the medical licensure authority or state medical association in any state in which the physician is licensed to practice medicine, the American Board of Medical Specialties and any of its member specialty boards, the Mississippi Attorney General or District Attorney, the United States Attorney, any state or federal court or administrative agency, any national or state professional organization or medical specialty association, and any other appropriate person, government agency, healthcare entity, or legal authority.

Compliance Policy and Exemptions

- 800 In assuring compliance with these regulations, the duty shall be on the physician, not on the party who engaged the physician to perform medical expert activities and not on any other person or entity, to ensure that his or her medical expert activities comply with these regulations. Any physician who claims to be exempt from these regulations shall have the burden of proving to the Board that the exemption is valid.

Notice of Regulation of Medical Expert Activities by Physicians

- 900 At the time of an initial licensure application, and at the time of each application for a renewal of a license to practice medicine in Mississippi, all physicians shall acknowledge that they have had an opportunity to read these regulations by accessing the website of the Mississippi State Board of Medical Licensure (at internet address www.msbml.state.ms.us) or by requesting a printed copy of these regulations from the Board.

Effective Date and Repealer

- 1000 These regulations shall become effective on July 1, 2006. Unless re-adopted by the Board, these regulations shall be repealed automatically and shall cease to be effective on June 30, 2010.

References

- 2000 Mississippi Code, Sections 11-1-61, 73-25-27, 73-25-29, 73-25-30, 73-25-33, 73-25-34, 73-25-83, 73-25-87, 73-43-11, 73-51-1, et al
- 2001 Mississippi Rule of Evidence 702

- 2002 “Rules, Regulations, Laws, and Policies of the Mississippi State Board of Medical Licensure.” Published by the Mississippi State Board of Medical Licensure and available at Internet address www.msbl.state.ms.us
- 2003 Hall v. Hilbun, 466 So. 2d 856 (Miss. 1985)
- 2004 Code of Medical Ethics, Current Opinions with Annotations. Published by the Council on Ethical and Judicial Affairs of the American Medical Association, 2006-07 edition.
- 2005 “The Role of Licensing Boards in the Evaluation and Discipline of the Expert Witness.” Authored by William J. Wenner, Jr., M.D., J.D. Published in the Journal of Medical Licensure and Discipline, Vol. 90, No. 3, 2004, Pp. 15-20 (collecting cases and scholarly publications)
- 2006 Findings of Fact adopted by the Mississippi State Board of Medical Licensure on May 18, 2006.**

** COMMENT: Based on information presented to the Board at a public hearing on this matter on March 9, 2006, and on May 18, 2006, and on research and analysis of information obtained by Board members and its staff and attorneys, and also on comments received from numerous sources, including the Board’s Consumer Health Committee, leaders of the medical and legal professions, former judges, officials from the Federation of State Medical Boards, and members of the public, the Mississippi State Board of Medical Licensure makes the following Findings of Fact:

1. A physician’s professional practice, conducted pursuant to the privilege of possessing a medical license, historically has been subject to regulation by other members of the medical profession, by methods such as peer review, performance evaluation, quality assurance monitoring, and other methods of regulation. However, there is a problem in Mississippi with the lack of regulation of medical expert activities by physicians. This lack of regulation causes the performance of medical expert activities to be vulnerable to fraud, abuse, dishonesty, deception, incompetence, and other forms of unprofessional, dishonorable, and unethical conduct by physician experts, all of which are harmful to the public.
2. A physician’s performance of medical expert activities involves a lawful part of a physician’s practice that is historically an area of State concern and that the Board has the statutory authority and duty to regulate in order to protect the public.
3. A physician’s medical expert activities involve practices that are likely to affect the health, safety, rights, remedies, and general welfare of persons in Mississippi.
4. In keeping with the public policy and provisions of law in Mississippi, the performance of medical expert activities, regardless of the physician expert’s location or State(s) of medical licensure, is a lawful practice that requires a qualified physician, and is therefore subject to regulation by, and professional accountability to, the Mississippi State Board of Medical Licensure.
5. Due to its physician membership and statutory authority, the Mississippi State Board of Medical Licensure is uniquely able to establish and enforce licensure requirements, qualification requirements, and Professional Standards related to the performance of medical expert activities by physicians, especially with regard to ethical conduct and competent practice.
6. Regardless of a physician’s State(s) of medical licensure, a physician who performs medical expert activities in a legal matter has an ethical duty to practice according to the standards of medical professionalism, to perform all medical expert activities in an honest and competent manner, and to strive to report to appropriate entities any physician who is deficient in character or competence or who engages in fraud or deception.
7. In keeping with the public policy and provisions of law in Mississippi and principles of medical ethics, it is unprofessional, dishonorable, and unethical for a physician to willfully state an opinion or a material fact as a medical expert in the context of a legal matter that the physician knows or should know is false, or that a reasonable person could objectively conclude was a misrepresentation or other distortion of the truth, or was intended by the physician to mislead or deceive a judge, juror, lawyer, litigant, other expert, hearing officer, administrative body, investigator, legal authority, or any finder of fact.
8. In adopting these regulations, the Mississippi State Board of Medical Licensure has attempted to tailor these regulations as closely as possible to the current provisions of Mississippi law, in order to regulate medical expert activities for the legitimate government purpose of protecting the public and to further other legitimate government purposes in the public interest.

Chapter 23 Prevention of Transmission of Hepatitis B Virus (HBV), Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV) to Patients

Scope

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

Definitions

200 For the purpose of Chapter 23 only, the following terms have the meanings indicated:

1. “HBV” means Hepatitis B Virus.
2. “HCV” means Hepatitis C Virus.
3. “HIV” means Human Immunodeficiency Virus.
4. “HBeAg seropositive” means that a test of the practitioner's blood has confirmed the presence of Hepatitis Be antigen.
5. “HCV seropositive” means that a test of the practitioner's blood has confirmed the presence of Hepatitis C antigen.
6. “HIV seropositive” means that a test of the practitioner's blood has confirmed the presence of HIV antibody.
7. “Exposure-Prone Procedure” means an invasive procedure in which there is an increased risk of per cutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp object in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient.
8. “Practitioners” or “Physicians” means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
9. “Act” means the Mississippi Medical Practice Act as found at Sections 73-25-1 through 73-27-19, Mississippi Code.

Use of Infection Control Precautions

300 General Requirements

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9. In adopting these regulations, the Mississippi State Board of Medical Licensure states that its intent is only to regulate the conduct and practice of physicians who perform medical expert activities in Mississippi. The Board does not intend for these regulations to be subverted or misused by participants in legal proceedings as a procedural weapon to intimidate or harass a physician expert or to delay or otherwise complicate the administration of justice.

The Mississippi State Board of Medical Licensure shall provide a copy of these regulations, with these Comments appended, to the Mississippi Supreme Court, the Mississippi Court of Appeals, the respective conferences of the Mississippi Circuit, Chancery, and County Judges, the Administrative Office of the Courts, the Mississippi Attorney General, the United States District Courts and United States Attorneys located in Mississippi, the Mississippi Workers' Compensation Commission, the Mississippi Bar Association, the Mississippi State Medical Association, the Federation of State Medical Boards, and any other appropriate person or organization at the discretion of the Board's Executive Director, with the request that those organizations give notice to their members or other interested parties of the existence of these regulations.

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

- 301 Universal Blood and Body-Fluid Precautions. For purposes of this section, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards:
1. Protective Barriers. A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or cesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.
 2. Hand Washing. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.
 3. Per Cutaneous Injury Precautions. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles, and when handling sharp instruments after procedures. If a needle stick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needle stick injuries, needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.
 4. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.
 5. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.
 6. Precautions for Practitioners with High Risk Lesions and Dermatitis. Practitioners who have exudative lesions or weeping dermatitis must refrain from all direct patient care and from handling patient care equipment and devices used in performing invasive procedures until the condition is resolved.

7. Failure to Comply with Standards. Failure by a practitioner to adhere to the Universal Blood and Body Fluid Precautions established herein shall be deemed unprofessional conduct in violation of Section 73-25-29(8)(d). Upon report of a violation, the Board of Medical Licensure shall take action consistent with the Medical Practice Act to determine if a violation has occurred, and if a violation has occurred, determine what sanctions, if any, are appropriate. The practitioner shall be entitled to the procedures guaranteed by the Act, including, but not necessarily limited to, a hearing concerning the charge(s).

Screening/Reporting

- 400 It is recommended that physicians know their HIV, HBV or HCV antibody status and submit to the appropriate tests to determine this status on an annual basis on or before the physician's birthday.
- 401 Any practitioner who is or becomes HBeAg seropositive, HCV seropositive or HIV seropositive shall give written notice of such seropositivity to the Board of Medical Licensure on or before thirty (30) days from the date the seropositivity is determined.
- 402 The written notice of seropositivity as required in Section 401 above shall be sent by registered mail to the attention of the Board's Executive Officer, and shall include a copy of the test results and identification of the physician's treating physician.
- 403 A panel shall be established to monitor physicians who are HIV seropositive, HBeAg seropositive or HCV seropositive. The panel shall consist of the physician's private physician(s), an infectious disease specialist with expertise in the epidemiology of HIV, HBV and HCV transmission, a practitioner with expertise in the procedures performed by the infected practitioner, a psychiatrist, and a member and/or Executive Officer of the Board of Medical Licensure. The above list is not intended to be all inclusive and other physicians or representatives of other fields of medicine can be added to the panel, at the request of either the infected physician, a panel member, and/or the Board of Medical Licensure.
- 404 The panel shall designate two or more of its members to meet with seropositive physicians to evaluate the physicians' practice, extent of illness and other factors to determine what modifications, if any, will be required in their practice patterns. In addition, the panel shall meet at least annually with the Board to report its progress, discuss enforcement and related issues.

Confidentiality of Reported Information

- 500 General Confidentiality. Reports and information furnished to the Board pursuant to Section 401 above shall be confidential and privileged. Said reports and information shall not be subject to disclosure without prior written consent of the practitioner identified in the report.
- 501 Confidentiality of Identity of Seropositive Practitioners. The identity of practitioners who have reported their status as carriers of HBV, HCV or HIV to the Board pursuant to Section 401 above shall be maintained in confidence by the Board and shall not be disclosed to any person, firm, organization, or entity, governmental or private, except as

may be necessary in the investigation or prosecution of suspected violations of this rule and regulation or violation of the Mississippi Medical Practice Act.

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

Penalties

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

HIV, HBV and HCV Tests

- 700 All tests to determine HIV, HbeAg or HCV seropositivity should be performed at a standardized laboratory that is licensed in the state of Mississippi.

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

Chapter 24 Physician Advertising

Scope

- 100 The following rule on physician advertising applies to all individuals licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 24 only, the following terms have the meanings indicated:
1. “Board” means the Mississippi State Board of Medical Licensure.
 2. “Physician” means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 3. “Advertisement” or “Advertising” means any form of public communication, such as newspaper, magazine, telephone directory, medical directory, radio, television, direct mail, billboard, sign, computer, business card, billing statement, letterhead or any other means by which physicians may communicate with the public or patients.

Requirements

- 300 Subject to the requirements set forth herein below, any advertisement by a physician may include:
1. The educational background or specialty of the physician.
 2. The basis on which fees are determined, including charges for specific services.

3. Available credit or other methods of payment.
 4. Any other non-deceptive information.
- 301 A physician may publicize himself or herself as a physician through any form of advertisement, provided the communication, (i) shall not be misleading because of the omission of necessary information, (ii) shall not contain any false or misleading statement, or (iii) shall not otherwise operate to deceive.
- 302 Because the public can sometimes be deceived by the use of medical terms or illustrations that are difficult to understand, physicians should design the advertisement to communicate the information contained therein to the public in a readily comprehensible manner.
- 303 It is unethical to advertise in such a manner as to create unjustified medical expectations by the public. The key issue is whether advertising or publicity, regardless of format or content, is true and not materially misleading.
- 304 In addition to the above general requirements, any advertisement or other form of public communication shall comply with the following specific requirements:
1. All advertisements and written communications pursuant to these rules shall include the name of at least one (1) physician responsible for its content.
 2. Whenever a physician is identified in an advertisement or other written communication, the physician should not be identified solely as “Doctor” or “Dr.” but shall be identified as M.D. for medical doctors, D.O. for osteopathic physicians and D.P.M. for podiatric physicians.
 3. A physician who advertises a specific fee for a particular service or procedure shall honor the advertised fee for at least ninety (90) days unless the advertisement specifies a longer period; provided that for advertisements in the yellow pages of a telephone directory or other media not published more frequently than annually, the advertised fee shall be honored for no less than one (1) year following publication.
 4. A physician shall not make statements which are merely self-laudatory or statements describing or characterizing the quality of the physician's services.
 5. No physician shall advertise or otherwise hold himself or herself out to the public as being “Board Certified” without, (i) a complete disclosure in the advertisement of the specialty board by which the physician was certified, and (ii) can submit proof of current certification. The term “Board Certified” frequently appears in conjunction with a list of services that the physician or clinic provides. The general public could easily be misled into thinking that the physician is certified in all of those services.
 6. No physician shall hold himself or herself out as a specialist in a particular field unless that physician has either, (i) completed a “Board approved” residency program, which provides specific training in the specialized field and can submit proof that such training was completed, or (ii) can submit proof that while not completing a residency, was “grandfathered” into a specialty by successful completion of board examinations followed by board certification. A “Board approved” residency program shall be limited to residency programs recognized by the American Medical Association for medical doctors (M.D.), by the American Osteopathic Association for osteopathic physicians (D.O.), and by the American Podiatric Medical Association for doctors of podiatric medicine (D.P.M.).
 7. No physician shall compare his or her service with other physicians' services, unless the comparison can be factually substantiated; this precludes the use of terms such as “the best,” “one of the best,” or “one of the most experienced” or the like.

8. Where an advertisement includes a consumer-endorser's experience (i.e., patient testimonials), the advertisement must contain an appropriately worded, clear and prominent disclosure of (a) what the generally expected performance would be in the depicted circumstances, and (b) the limited applicability of the endorser's experience. Although testimonials and endorsements are authorized under this rule, compliance will be strictly monitored as endorsements and testimonials are inherently misleading to the lay public and to those untrained in medicine.
 9. Any claims of success, efficacy or result (i.e., cure) must have scientific evidence in substantiation of such claims.
 10. Any claims that purport to represent "typical" results (results that consumers will generally achieve) must be based on a study of a sample of all patients who entered the program, or, if the claim refers to a subset of those patients, a sample of that subset.
 11. Any claim made regarding the safety of a medical procedure or drug must also disclose the risk of adverse medical complications.
 12. No physician shall claim to have any new drug or medication or new use of a drug or medication for a specific ailment or condition unless such drug or medication has an F.D.A. approved indication for such purpose.
 13. Any claim that improvements can be achieved through surgery in a specified time period must also include disclosure of the typical recovery time.
- 305 Consistent with federal regulatory standards which apply to commercial advertising, a physician who is considering the placement of an advertisement or publicity release, whether in print, radio or television, should determine in advance that the communication or message is explicitly and implicitly truthful and not misleading. These standards require the advertiser to have a reasonable basis for claims before they are used in advertising. The reasonable basis must be established by those facts known to the advertiser, and those which a reasonable, prudent advertiser should have discovered.
- 306 The above rules do not prohibit physicians or clinics from authorizing the use of the physician's name or clinic name in medical directories, HMO directories, preferred provider agreements or other communications intended primarily for referral purposes.

Violation of Rules

- 400 The above rules on physician advertising shall not be interpreted to alter or amend that which is otherwise provided by Mississippi statutory law or the rules on advertising adopted by the Federal Trade Commission.
- 401 If any physician subject to this rule advertises or enters into any communication in violation of the above rules and regulations, such act shall constitute unprofessional conduct, which includes dishonorable or unethical conduct likely to deceive, defraud or harm the public, in violation of Mississippi Code, Sections 73-25-29(8)(d) and 73-27-13(h)(iv).

Effective Date of Regulations

- 500 The above rules and regulations pertaining to physician advertising shall become effective November 2, 1995.

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

Scope

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

Definitions

- 200 For the purpose of Chapter 25 only, the following terms have the meanings indicated:
1. “Administer”, “Controlled Substances”, and “Ultimate User” shall have the same meaning as set forth in Mississippi Code, Section 41-29-105, unless the context otherwise requires.
 2. “Physician” means any person licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 3. “Prescribe” means to designate or order by means of either a written or oral prescription the delivery of a controlled substance or legend drug to an ultimate user.
 4. “Dispense” means to deliver a controlled substance or legend drug other than by administering or prescribing to an ultimate user or research subject including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
 5. For the purpose of enforcement of the labeling requirements set forth in Section 601 of these regulations, “Dispensing Physician” means any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
 6. “Prescription Drug” or “Legend Drug” means a drug required under federal law to be labeled with the following statement prior to being dispensed or delivered; “Caution: Federal law prohibits dispensing without prescription,” or a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by physicians only.

Registration for Controlled Substances Certificate

- 300 Every physician licensed to practice in Mississippi who prescribes, administers or dispenses any controlled substance within Mississippi or who proposes to engage in the prescribing, administering or dispensing of any controlled substance within Mississippi must be registered with the U.S. Drug Enforcement Administration in compliance with Title 21 CFR Part 1301 Food and Drugs.
- 301 Pursuant to authority granted in Mississippi Code, Section 41-29-125, the Mississippi State Board of Medical Licensure hereby adopts, in lieu of a separate registration with the Board, the registration with the U.S. Drug Enforcement Administration as required in Section 300 above. In the event, however, a physician has had limitations or other restrictions placed upon his or her license wherein he or she is prohibited from handling controlled substances in any or all schedules, said physician shall be prohibited from registering with the U.S. Drug Enforcement Administration for a Uniform Controlled Substances Registration Certificate without first being expressly authorized to do so by order of the Mississippi State Board of Medical Licensure.

- 302 Persons registered to prescribe, administer, dispense or conduct research with controlled substances may order, possess, prescribe, administer, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of these regulations and in conformity with provisions of the Mississippi Uniform Controlled Substances Law, Mississippi Code, Sections 41-29-101 et seq.
- 303 The registration requirement set forth in these regulations does not apply to the distribution and manufacture of controlled substances. Any physician who engages in the manufacture or distribution of controlled substances or legend drugs shall register with the Mississippi State Board of Pharmacy pursuant to Mississippi Code, Section 73-21-105. For the purposes herein, “distribute” shall mean the delivery of a drug other than by administering, prescribing or dispensing. The word “manufacture” shall have the same meaning as set forth in Mississippi Code, Section 41-29-105(q).

Maintenance of Records and Inventories

- 400 Every physician licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi shall maintain inventories, logs, and records prescribed in this chapter.
- 401 Controlled substances inventory record. All controlled substances classified under Schedules II, IIN, III, IIIN, IV and V which are purchased by the physician must be inventoried at least every two (2) years. All inventory records for controlled substances in Schedules II and IIN must be maintained separately from the inventory records for Schedules III, IIIN, IV and V controlled substances. To insure the reliability of an inventory, the physician shall maintain a readily retrievable record of controlled substances purchased, including a copy of all purchase invoices identifying the name, quantity and strength/dose of the controlled substance purchased, the supplier and the date purchased.
- 402 Controlled substances dispensation/administration record. Every physician who shall dispense or administer Schedules II, IIN, III, IIIN, IV and V controlled substances shall maintain a separate readily retrievable record of all such substances dispensed or administered. This requirement shall not apply to Schedules III, IIIN, IV and V prepackaged samples and starter packs. All dispensation/administration records for controlled substances in Schedules II and IIN must be maintained separately from the dispensation/administration records for Schedules III, IIIN, IV and V controlled substances. The record shall contain the following information:
1. The date the controlled substance was dispensed or administered.
 2. The name, quantity and strength/dose of the controlled substance dispensed or administered.
 3. The method of administration of the controlled substance, i.e. oral, IV or subcutaneous.
 4. The name and address of the patient to whom the controlled substance was dispensed or administered.
 5. For all Schedules II and III amphetamines, amphetamine-like anorectic drugs, or sympathomimetic amine drugs dispensed in the treatment of narcolepsy, hyperkinesis, brain dysfunction, epilepsy, or depression, the dispensing or administration records shall include the diagnosis and the reason for use of the Schedules II and III controlled substances.

- 403 Within thirty (30) days after the effective date of this rule the Mississippi State Board of Medical Licensure shall cause a notice to be mailed to every physician whose practice location is in the state of Mississippi notifying them of the Controlled Substance Inventory and separate Dispensation/Administration Record. Every physician shall within ninety (90) days of the effective date of this rule, prepare an initial inventory of controlled substances. An example combination Controlled Substances Inventory Record and Controlled Substances Dispensation/Administration Record are hereby incorporated as Appendixes “C” and “D” to these regulations.
- 404 Patient Record. A physician who prescribes, dispenses or administers a controlled substance shall maintain a complete record of his or her examination, evaluation and treatment of the patient which must include documentation of the diagnosis and reason for prescribing, dispensing or administering any controlled substance; the name, dose, strength, quantity of the controlled substance and the date that the controlled substance was prescribed, dispensed or administered. The record required by this section shall be maintained in the patient's medical records, provided that such medical records are maintained at the office of the physician and are available for inspection by the representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.
- 405 No physician shall prescribe, administer or dispense any controlled substance or other drug having addiction-forming or addiction-sustaining liability without a good faith prior examination and medical indication therefore.***

*** COMMENT: A determination as to whether a “good faith prior examination and medical indication therefore” exists depends upon the facts and circumstances in each case. One of the primary roles of a physician is to elicit detailed information about the signs and symptoms which a patient presents in order that he or she may recommend a course of treatment to relieve the symptoms and cure the patient of his or her ailment or maintain him or her in an apparent state of good health. In order for a physician to achieve a proper diagnosis and treatment plan, a history and physical examination consistent with the nature and complaint are necessary. The importance of these aspects of proper medical practice cannot be over emphasized. The paramount importance of a complete medical history in establishing a correct diagnosis is well established. Standards of proper medical practice require that, upon any encounter with a patient, in order to establish proper diagnosis and regimen of treatment, a physician must take three steps: (a) take and record an appropriate medical history, (b) carry out an appropriate physical examination, and (c) record the results. The observance of these principles as a function of the “course of legitimate professional practice” is particularly of importance in cases in which controlled substances are to play a part in the course of treatment. It is the responsibility of the physician to dispense, prescribe or administer such drugs with proper regard for the actual and potential dangers. This fact has been established in a number of closely related administrative and criminal cases, **United States v. Barte**, 479 F.2d 484 (10th Cir. 1973) (No physical examination prior to issuance of prescriptions for controlled substances); **United States v. Greene**, 511 F.2d 1062 (7th Cir. 1975); **Arthurs v. Board of Registration of Medicine**, 418 N.E. 2d 1236 (MA 1981) (failure to record in patient file prescriptions for controlled substances issued or failure to record patient visit); **Brainard v. State Board of Medical Examiners**, 157 P2d 7 (Ca. 1945); **Dannerberg v. Board of Regents**, 430 N.Y.2d 700 (1980) (issuance of three prescriptions for sleeping pills to an undercover agent without a physical examination); **Widlitz v. Board of Regents of New York**, 429 N.Y. 2d 794 (1980) (issuance of Desoxyn to patients whom physician knew were drug addicts without conducting physical examination); **United States v. Rosenberg**, 515 F.2d 190 (9th Cir. 1975) (no physical examination, evidences that prescriptions were not in course of professional practice); and **United States v. Hooker**, 541 F.2d 300 (1st Cir. 1976), (little more than cursory physical examination, frequent neglect to inquire as to past medical history, little or no exploration of the type of problem the patient allegedly had “indicates that the minimal professional procedures followed were designed only to give an appearance of propriety to appellant's unlawful distributions”).

A determination of proper “medical indication”: also requires a careful examination of the nature of the drug and all circumstances surrounding dispensation. Case law developed by the courts in connection with controlled substances criminal violations and administrative decisions further illustrates several indications of lack of good faith. See **United States v. Greene**, 511 F.2d 1062 (7th Cir. 1975) and **United States v. Rosenberg**, 515 F.2d 190

- 406 A physician shall not sell or trade any medication which he or she receives as prepackaged samples or starter packs, whether or not said samples are controlled substances, legend drugs or other medication.
- 407 The Controlled Substances Inventory, Controlled Substance Dispensation/Administration Record, and Patient Record required by these regulations shall be maintained in the office of the physician for a period of seven (7) years from the date that the record is completed or the controlled substances, legend drugs or other medications are prescribed, administered or dispensed and shall be made available for inspection by representatives of the Mississippi State Board of Medical Licensure pursuant to authority granted in Mississippi Code, Section 41-29-125.
- 408 A physician may use a data processing system or a manual record keeping system for the storage and retrieval of Controlled Substances Dispensation/Administration Records. If a physician utilizes a data processing system it must provide immediate retrieval of all dispensation/administration records of controlled substances.

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

Use of Diet Medication

- 500 Pursuant to Mississippi Code, Section 41-29-139(e), it is unlawful for any physician in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectic and/or central nervous system stimulant classified as Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control, or weight loss.
- 501 As to the administration, dispensation or prescription of controlled substance anorectics in Schedules III, IV and V, use of said medications in the treatment of obesity or weight loss should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of weight loss in the treatment of obesity only as an adjunct to a regimen of weight reduction based on caloric restriction, provided, that all of the following conditions are met:
1. Before initiating treatment utilizing a Schedules III, IV or V controlled substance, the physician determines through review of his or her own records of prior treatment, or thorough review of the records of prior treatment which another treating physician or

(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.

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

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

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

502 A physician shall not utilize a Schedules III, IV or V controlled substance or legend drug for purposes of weight loss unless it has an FDA approved indication for this purpose and then only in accordance with all of the above enumerated conditions. The purpose of this rule is to prohibit the use of such drugs as diuretics and thyroid medications for the sole purpose of weight loss.

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

600 Definitions

For the purpose of Section 600 only, the following terms have the meanings indicated:

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

601 Notwithstanding any other provisions of these rules and regulations, a physician may prescribe, administer, or dispense controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability to a

person in the usual course of treatment of that person for a diagnosed condition causing chronic pain.

- 602 Notwithstanding any other provisions of these rules and regulations, as to the prescribing, administration, or dispensation of controlled substances in Schedules II, IIN, III, IIIN, IV and V, or other drugs having addiction-forming and addiction-sustaining liability, use of said medications in the treatment of chronic pain should be done with caution. A physician may administer, dispense or prescribe said medications for the purpose of relieving chronic pain, provided that the following conditions are met:
1. Before initiating treatment utilizing a Schedules II, IIN, III, IIIN, IV or V controlled substance, or any other drug having addiction-forming and addiction-sustaining liability, the physician shall conduct an appropriate risk/benefit analysis by reviewing his or her own records of prior treatment or review the records of prior treatment which another treating physician has provided to the physician, that there is an indicated need for long-term controlled substance therapy. Such a determination shall take into account the specifics of each patients diagnosis, past treatments and suitability for long-term controlled substance use either alone or in combination with other indicated modalities for the treatment of chronic pain. This shall be clearly entered into the patient medical record and shall include consultation/referral reports to determine the underlying pathology or cause of the chronic pain.
 2. Documentation in the patient record shall include a complete medical history and physical examination that indicates the presence of one or more recognized medical indications for the use of controlled substances.
 3. Documentation of a written treatment plan which shall contain stated objectives as a measure of successful treatment and planned diagnostic evaluations, e.g., psychiatric evaluation or other treatments. The plan should also contain an informed consent agreement for treatment that details relative risks and benefits of the treatment course. This should also include specific requirements of the patient, such as using one physician and pharmacy if possible, and urine/serum medication level monitoring when requested.
 4. Periodic review and documentation of the treatment course is conducted at reasonable intervals (no more than every six months) with modification of therapy dependent on the physician's evaluation of progress toward the stated treatment objectives. This should include referrals and consultations as necessary to achieve those objectives.
- 603 No physician shall administer, dispense or prescribe a controlled substance or other drug having addiction-forming and addiction-sustaining liability that is nontherapeutic in nature or non-therapeutic in the manner the controlled substance or other drug is administered, dispensed or prescribed.
- 604 No physician shall administer, dispense or prescribe a controlled substance for treatment of chronic pain to any patient who has consumed or disposed of any controlled substance or other drug having addiction-forming and addiction-sustaining liability other than in strict compliance with the treating physician's directions. These circumstances include those patients obtaining controlled substances or other abusable drugs from more than one physician and those patients who have obtained or attempted to obtain new prescriptions for controlled substances or other abusable drugs before a prior prescription should have been consumed according to the treating physician's directions. This requirement will not be enforced in cases where a patient has legitimately temporarily escalated a dose of their pain medication due to an acute exacerbation of their condition but have maintained a therapeutic dose level; however, it will be required of the treating

physician to document in the patient record that such increase in dose level was due to a recognized indication and was within appropriate therapeutic dose ranges. Repetitive or continuing escalations should be a reason for concern and a re-evaluation of the present treatment plan shall be undertaken by the physician.

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

Drug Maintenance Requirements

- 700 All drug products which are maintained/stored in the office of a physician shall be maintained/stored in the manufacturer's or repackager's original container. The label of any container in which drugs are maintained must bear the drug name, strength, the manufacturer's control lot number and the expiration date. Drugs which are precounted and prepackaged for purposes of dispensing shall be identifiable as to expiration date and manufacturer's control lot number. The containers in which drug products are maintained shall not be labeled in any false or misleading manner. The labeling requirements of this section are in addition to, and not in lieu of, other labeling requirements of the Laws of the state of Mississippi, Rules and Regulations of the Mississippi State Board of Medical Licensure, and Laws of the United States or Federal Regulations.
- 701 A physician shall not dispense out-of-date drugs or store out-of-date drugs intermixed with the stock of current drugs. Out-of-date drugs shall be promptly removed from current stock and stored separately until proper disposal shall be made. A physician, when dispensing a product in a manufacturer's original package or container, the labeling of which bears an expiration date, a manufacturer's control lot number or other information which may be of value to the patient, shall dispense the product with this information intact.
- 702 The drug storage and dispensing area shall be maintained in a sanitary fashion.
- 703 A physician shall not accept the return for subsequent resale or exchange any drugs after such items have been taken from the premises where sold, distributed or dispensed and from the control of the physician.
- 704 All drug products shall be maintained, stored and dispensed in such a manner as to maintain the integrity of the product.

Labeling Requirements for Dispensing Physicians

- 800 For the purposes of this rule, a “dispensing physician” shall mean any physician who shall dispense to a patient for the patient's use any controlled substance, legend drug or other medication where such medication is purchased by the physician for resale to a patient whether or not a separate charge is made.
- 801 Every dispensing physician, as defined above, who shall dispense a controlled substance, legend drug or any other medication shall insure that all such substances dispensed be labeled containing the following information:
1. The name of the patient to whom the medication was dispensed.
 2. The date that the medication was dispensed.
 3. The name, strength and quantity of the medication.
 4. Direction for taking or administering the medication.
 5. The name and address of the physician dispensing the medication.
- The label required by this section shall be written in legible handwriting or typed and shall be permanently affixed to the package or container in which the medication is dispensed. This labeling requirement shall not apply to prepackaged samples or starter packs in their original packages or containers.
- 802 No physician may delegate dispensing authority to another person. A physician must personally dispense the medication. For the purpose of this regulation, “personally dispense” shall mean the physician must actually obtain the medication, prepare, count, place the same into the appropriate container and affix the appropriate label to the container.

Prescription Guidelines—Controlled Substances

- 900 It is the ultimate responsibility of the physician to determine the type, dosage form, frequency of application and number of refills of any controlled substances prescribed to a patient. This responsibility must never be delegated to non-physician personnel. Certified nurse midwives, certified nurse practitioners, nurses, and other non-physician personnel may, when such activity is within the scope of their license, protocol and qualifications, make a preliminary or tentative determination and recommendation to the physician based on assessments and evaluations carried out by the non-physician personnel, but in all such cases the recommendation of the non-physician must be reviewed and approved by a physician, who must personally issue the prescription. The following requirements apply to all prescriptions for controlled substances:
1. All prescriptions for controlled substances must be written in strict compliance with Mississippi Code, Sections 41-29-101 through 41-29-311 and Title 21 of U.S. Code of Federal Regulations, Part 1306.
 2. On all prescriptions of controlled substances wherein refills are permitted, physicians shall indicate the appropriate refills, not to exceed five (5), or mark “none.”
 3. Each physician shall insure that the complete name and address of the patient to whom the physician is prescribing the controlled substance appears on the prescription.
 4. A physician shall not permit any prescription for controlled substances to be signed by any non-physician in the place of or on behalf of the physician.
 5. A physician shall not pre-sign blank prescription pads or order forms under any circumstances.
 6. A physician shall not utilize blank prescription pads or order forms upon which the signature of the physician has been electronically, mechanically or photostatically

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

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

It is also required, that in addition to filing the original prescription (or copy) in the patient file, a perpetual, chronological logbook of fax transactions be established and maintained. Such a logbook would serve to protect the prescribing physician in the event the original prescription is somehow lost or misfiled. The information contained in such a logbook shall include the patient's name and address, date of issuance, name, strength and quantity of the drug prescribed and the name and fax number of the receiving pharmacy and the initials or name of the person faxing the prescription. Such logs shall be maintained in the physician's clinic in a readily retrievable manner, and kept for at least seven (7) years after the original record is established. The requirements set forth in this section are in addition to, and not in lieu of documentation required in Section 404.

- b. When a prescription is prepared and written for any controlled substance for a resident of a Long-term Care Facility (LTCF)(as defined in Section 1301.01(25), Code of Federal Regulations), such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will note on the prescription that the patient is a resident of a LTCF. The original prescription (or copy) and fax transaction log will be prepared and maintained in the same manner as described in Section 900.6.a above.
- c. When a prescription is written for any controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII or licensed by the state, such prescription may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The physician or the physician's agent will

note on the prescription that the patient is a hospice patient. The original prescription (or copy) and fax transmission log will be maintained in the same manner as described in Section 900.6.a above.

- d. Each system shall have policies and procedures that address the following:
 - i. The patient shall not be restricted from access to the pharmacy of their choice.
 - ii. The system shall have security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription information, as well as physical safeguards to protect computer systems and other pertinent equipment from intrusion.
 - iii. Processes to protect, control and audit access to confidential patient information, including the prevention of unauthorized access to data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or other media used to store downloaded information.
7. No more than one (1) controlled substance shall be issued on a single prescription blank.

Prescription Guidelines - All Medications

1000 In addition to any other requirements set forth in these regulations pertaining to the issuance of prescriptions of controlled substances, the following additional requirements apply to all prescriptions, whether or not said prescriptions are for controlled substances, legend drugs or any other medication:

1. Every written prescription delivered to a patient, or delivered to any other person on behalf of a patient, must be manually signed on the date of issuance by the physician. This does not prohibit, however, the transmission of electronically telefaxed (but not e-mail) prescriptions for non-controlled drugs to the pharmacy of the patient's choice. Such telefaxed prescriptions shall bear the signature of the prescribing physician and shall be issued in accordance with all other provisions of this section. No prescriptions for brand name or generic equivalents of Nalbuphine Hcl, Carisoprodol, Butalbital compounds, or Tramadol Hcl shall be telefaxed.
2. All prescriptions shall be on forms containing two lines for the physician's signature. There shall be a signature line in the lower right-hand corner of the prescription form beneath which shall be clearly imprinted the words "substitution permissible." There shall be a signature line in the lower left corner of the prescription form beneath which shall be clearly imprinted the words "dispense as written." The physician's signature on either signature line shall validate the prescription and designate approval or disapproval of product selection. The prescription form shall bear the pre-printed name of the physician, or the physician shall clearly print his or her name on the prescription form, in addition to the physician's original signature. In the event that the prescription form bears the pre-printed name of more than one physician, the physician shall clearly indicate the name of the physician writing the prescription.
3. If a prescription form which does not contain two signature lines required in Section 1000.2 of this Chapter is utilized by the physician, he or she shall write in his or her own handwriting the words "dispense as written" thereupon to prevent product selection.
4. Every written prescription issued by a physician for a legend drug should clearly state whether or not the prescription should be refilled, and if so, the number of authorized refills and/or the duration of therapy. Physicians should avoid issuing prescriptions refillable on "prn" basis. If a physician chooses to issue a prescription refillable

“prn”, the life of the prescription or time limitation must clearly be set forth on the prescription. In no case shall a prescription which is refillable on a “prn” basis be refilled after the expiration of one (1) year. Regardless of whether a prescription is refillable on a “prn” basis or the prescription expressly states the number of authorized refills, the use of said medication should be re-evaluated on at least an annual basis. Upon the expiration of one (1) year, a prescription becomes invalid, regardless of the number of refills indicated or “prn” designation. Thereafter, a new prescription, if indicated, must be issued.

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

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

Freedom of Choice

- 1100 A physician shall not be influenced in the prescribing of drugs, devices or appliances by a direct or indirect financial interest in a pharmaceutical firm, pharmacy or other supplier. Whether the firm is a manufacturer, distributor, wholesaler, or repackager of the product involved is immaterial. Reputable firms rely on the quality and the efficacy to sell their products under competitive circumstances and do not appeal to physicians to have financial involvements with the firm in order to influence their prescribing, administering or dispensing.
- 1101 A physician may own or operate a pharmacy if there is no resulting exploitation of patients. A physician shall not give a patient prescriptions in code or enter into agreements with pharmacies or other suppliers regarding the filling of prescriptions by code. Patients are entitled to the same freedom of choice in selecting who will fill their prescription needs as they are in the choice of a physician. The prescription is a written direction for a therapeutic or corrective agent. A patient is entitled to a copy of the physician's prescription for drugs or other devices as required by the principles of medical ethics. The patient has a right to have the prescription filled wherever the patient wishes. Where medication is to be dispensed or a prescription, excluding refills, called in to a pharmacist for medication, a physician shall inform each patient of that patient's right to a written prescription and the right to have the prescription filled wherever the patient wishes.
- 1102 Patients have an ethically and legally recognized right to prompt access to the information contained in their individual medical records. The prescription is an essential part of the patient's medical record. If a patient requests a written prescription

in lieu of an oral prescription, this request shall be honored. Physicians shall not discourage patients from requesting a written prescription or urge, suggest or direct in any manner that a patient fill a prescription at an establishment which has a direct telephone line or which has entered into a business or other preferential arrangement with the physician with respect to the filling of the physician's prescriptions.

Other Drugs Having Addiction-forming Liability

1200 All physicians shall maintain inventory, dispensation/administration and patient records in the same format as that required by Section 400 when administering or dispensing the drug Nalbuphine Hydrochloride (Nubain) or its generic equivalent. The inventory and dispensation/administration records for said drug may be maintained separately or included as a part of the physician's controlled substance records.

Security of Controlled Substances

1300 In all clinics or offices wherein controlled substances or other drugs having addiction-forming or addiction-sustaining liability are maintained, said medication shall be maintained in such a manner as to deter loss by theft or burglary. When a physician who is registered with the U.S. Drug Enforcement Administration has experienced a loss of controlled substances, the Board may issue an order requiring that person to appear before the Board and present a plan designed to prevent further loss of controlled substances or he or she may be ordered by the Board to implement any other reasonable measures to improve security over controlled substances deemed necessary by the Board to prevent further loss of the controlled substances.

1301 In all clinics or offices of a physician registered to handle controlled substances with the U.S. Drug Enforcement Administration, all controlled substances shall be stored in a securely locked, substantially constructed container or area. Only the physician or persons authorized by the physician shall have access to this storage area.

Violation of Regulations

1400 The prescribing, administering or dispensing of any controlled substance in violation of the above rules and regulations shall constitute the administering, dispensing or prescribing of any narcotic drug or other drug having addiction-forming or addiction-sustaining liability otherwise than in the course of legitimate professional practice, in violation of Mississippi Code, Section 73-25-29(3).

1401 The prescribing, administering or dispensing of any legend drug or other medication in violation of the above rules and regulations shall constitute unprofessional conduct, dishonorable or unethical conduct likely to deceive, defraud or harm the public in violation of Mississippi Code, Section 73-25-29(8)(d).

Effective Date of Regulations

1500 The above rules and regulations pertaining to prescribing, administering and dispensing of medication shall become effective October 31, 1987; as amended November 1, 1990; as amended January 3, 1994; as amended September 10, 1995; as amended June 30, 1996; as amended April 20, 1999; as amended May 20, 1999; as amended

February 17, 2001; as amended March 22, 2001; as amended July 15, 2004; and as amended October 14, 2004.

Chapter 26 Rules of Procedure

Scope

100 The following Rules of Procedure apply to all individuals licensed to practice medicine, osteopathic medicine and podiatric medicine in the state of Mississippi.

Definitions

- 200 For the purpose of Chapter 26 only, the following terms have the meanings indicated:
1. “Board” means the Mississippi State Board of Medical Licensure.
 2. “Mississippi Medical Practice Act” means Sections 73-25-1, et seq., pertaining to licensure and discipline of individuals practicing medicine or osteopathic medicine, and Sections 73-27-1, et seq., pertaining to licensure and discipline of individuals practicing podiatric medicine, or any amendments or additions to said statutes which may hereinafter be made.
 3. “Licensee” or “Physician” means any individual licensed to practice medicine, osteopathic medicine or podiatric medicine in the state of Mississippi.
 4. “Respondent” means a physician against whom a disciplinary proceeding has been initiated.
 5. “Complaint Counsel” means the attorney retained by the Board to prosecute physicians pursuant to the Mississippi Medical Practice Act.
 6. “Executive Director” means the chief executive officer or other designee employed by the Board to run the day to day operations of the Board.

Complaint/Investigation

- 300 An investigation of alleged violation(s) of the Mississippi Medical Practice Act may be initiated by the investigative staff of the Board either, (i) in response to a written complaint or adverse information duly received by the Board, or (ii) based on information independently developed by the investigative staff of the Board.
- 301 Upon receipt of information indicating a possible violation of the Mississippi Medical Practice Act, the investigative staff with advice and consultation from the Board's Executive Director, shall make an initial determination as to whether the information justifies further investigation. A case may be dismissed without further investigation based on a determination of either, (i) lack of jurisdiction, or (ii) no violation of the Mississippi Medical Practice Act.
- 302 During an investigation, the investigative staff may interview and take the statements of witnesses and licensees. During an interview of a licensee, the investigative staff shall inform the licensee of the nature and purpose for the investigation and, if requested, provide licensee with a copy of any written complaint provided, that if anonymity has been requested, all identifying data of the complainant shall be removed.

Initiation of Disciplinary Action

- 400 Upon conclusion of an investigation, the results shall be presented to the Board's Executive Director to determine if there is proper jurisdiction and violation of the Mississippi Medical Practice Act. The Board's Executive Director may then authorize the issuance of a summons and affidavit, naming the accused licensee as a respondent in the proceedings.
1. The summons, signed by the Board's Executive Director, shall set forth:
 - a. The style of the action.
 - b. The name and address of the accused respondent.
 - c. The address, date, and time at which the respondent is summoned to appear before the Board.
 - d. The specific sections of the Mississippi Medical Practice Act which the respondent is charged with violating.
 - e. The actions which the Board has the authority to take, including placing the physician on probation, the terms of which may be set by the Board, suspending his or her right to practice medicine for a time deemed proper by the Board, revoking his or her license, or taking any other action in relation to his or her license as the Board may deem proper under the circumstances.
 2. The affidavit, signed by the investigating officer, shall set forth, in numbered paragraphs, a concise statement of the material facts and allegations to be proven, including:
 - a. Facts giving rise to the Board's jurisdiction.
 - b. Facts constituting legal cause for administrative action against the respondent.
 - c. The statutory provisions alleged to have been violated by the respondent.
- 401 The summons and affidavit shall be delivered to the respondent, either through certified mail or by personal service.
- 402 The summons shall name a date for hearing not less than thirty (30) days or more than sixty (60) days from the date of the mailing or service of the summons.
- 403 The summons and affidavit shall bear the name, address, and telephone number of complaint counsel.
- 404 All pleadings, motions or other papers permitted or required to be filed with the Board in connection with a pending disciplinary proceeding shall be filed by personal delivery at or by mail to the office of the Board. A copy of all papers filed with the Board shall be delivered by certified mail or personally served on opposing counsel of record.
- 405 All pleadings, motions or other papers shall be submitted on plain white, letter size (8 ½" x 11") bond, with margins of at least one inch on all sides and text double spaced except as to quotations and other matter customarily single spaced; shall bear the style and caption of the case as it appears on the summons and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by Section 404 above.
- 406 The Board may refuse to accept for filing any pleading, motion or other paper not in conformity with the requirements of this rule.
- 407 Within fifteen (15) days of service of the summons and affidavit, or such longer time as the Board, on motion of the respondent may permit, the respondent shall answer the summons and affidavit, admitting or denying each of the separate allegations of fact and

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

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

409 Upon service of a summons and affidavit pursuant to Section 401 above, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the Board of the name, address and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, affidavits, subpoenas, orders or other process related to the proceeding shall be served on respondent through the designated counsel of record.

Subpoenas

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

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

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

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

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

504 No subpoena shall be issued for the purpose of discovery, the means and manner of discovery being set forth in Section 600 below.

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

Discovery

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

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

1. Names and addresses of all witnesses proposed to be called in complaint counsel's case in chief, together with a copy of the contents of any statement, written, recorded, or otherwise preserved, of each such witness.
2. Copy of any written or recorded statement of respondent and the substance of any oral statement made by the respondent.
3. Copy of any criminal record of a respondent, if proposed to be used.
4. Any written reports or statements of experts, if proposed to be offered as evidence in connection with the particular case.
5. All records, documents, physical evidence or photographs which may be offered as evidence in complaint counsel's case in chief.
6. Any exculpatory material concerning the respondent. The Board shall charge a respondent a reasonable fee, not to exceed 50 cents per copy, payable in advance of delivery of copied documents.

601 The Board may deny disclosure authorized by Section 600 if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary embarrassment, resulting from such disclosure, which outweighs any usefulness of the disclosure to respondent or his or her counsel.

602 If respondent requests discovery under this rule, respondent shall, promptly disclose to complaint counsel and permit him or her to inspect, copy or photograph, the following information and material which is in the possession, custody, or control of respondent or his or her counsel, or the existence of which is known to respondent or his or her counsel:

1. Names and addresses of all witnesses proposed to be called in respondent's defense, together with a copy of the contents of any statement, written, recorded, or otherwise preserved, of each such witness.
2. All records, documents, physical evidence or photographs which may be offered as evidence in respondent's defense.
3. Any written reports or statements of experts, if proposed to be offered as evidence in connection with the particular case.

603 No depositions shall be taken in preparation for matters to be heard before the Mississippi State Board of Medical Licensure.

Amendment of Pleadings

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

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

Pre-Hearing Motions

- 800 All pre-hearing motions shall be filed not later than fifteen (15) days prior to the scheduled hearing. Said motion shall be accompanied by a memorandum setting forth a succinct explanation of the grounds on which relief is sought. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion.
- 801 Within ten (10) days of the filing of any motion, opposing counsel may file a memorandum in opposition to the initial motion.

Continuances

- 900 Hearings shall be held before the full Board at the time and place designated in the summons, unless a continuance is granted for just cause by the Board. A motion for a continuance must be filed with the Board at least fifteen (15) days prior to the scheduled hearing, or upon a showing of good cause, at any time prior to the hearing.
- 901 It must be recognized that the Board consists of nine (9) practicing physicians representing various regions of the state. Unlike the judiciary, Board members are not in the business of conducting hearings, therefore hearings will be held only during regularly scheduled meetings or other date established by order of the Board. Attorneys representing physicians should take this fact into consideration. A scheduled hearing may be continued if the respondent shows substantial, legitimate grounds for continuing the hearing, based on the balance of:
1. The right of respondent to a reasonable opportunity to prepare and present a defense.
 2. The Board's responsibility to protect the public health, safety and welfare.
- 902 Where the counsel for respondent has a scheduling conflict on the initial hearing date, continuances will be liberally granted. However, respondent's counsel must submit written proof of the scheduling conflict. Thereafter, no further continuances will be granted based solely on scheduling conflicts.
- 903 So that counsel for the respondent and complaint counsel shall be able to adequately prepare for hearing, any motion for a continuance filed within the time limitations specified at Section 900 above, will be immediately considered by the Board's President, who shall have the authority to grant or deny said motion. If granted, the order will be presented to the Board at the scheduled hearing date at which time the order will be formally entered and the rescheduled hearing date set.
- 904 It is the responsibility of the respondent to make a prompt decision as to whether to appear before the Board pro se (without counsel) or retain counsel for this purpose. Unless due to extraordinary circumstances, the Board will not consider as a valid ground for continuance, the respondent's last minute decision to retain counsel.

Informal Settlement, Pre-Hearing Stipulations, Consent Orders

- 1000 All disciplinary proceedings initiated by the Board shall be brought to a final resolution through one of three means:
1. Disciplinary hearings before the full Board.
 2. Acceptance by the Board of a mutually agreeable consent order in lieu of hearing.
 3. Dismissal of the case.

- 1001 As to disciplinary proceedings duly noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the Board's President may require, that an informal settlement conference be held for the purpose of possible resolution, simplifying the issues for hearing or promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.
- 1002 The informal settlement conference shall be conducted by respondent and/or his or her counsel and the complaint counsel. Other parties who may attend include the investigating officer, the Board's Executive Director, or any other party who may contribute to the conference. Board members shall not participate in the informal settlement conference, other than to approve a consent order as hereinafter provided.
- 1003 Discovery or exchange of information may be accomplished during the informal settlement conference.
- 1004 The informal settlement conference may result in:
1. Dismissal of the case.
 2. Return of the case for further investigation.
 3. Preparation of a proposed consent order as a resolution of the matter.
 4. Proceed with the scheduled hearing.
- 1005 Any action which the Board may take following a full disciplinary hearing may be taken in lieu thereof by consent order, duly executed by the respondent. Because of the lengthy dockets before the Board, informal settlement conferences must be held in sufficient time to allow consummation of negotiations of a consent order at least ten (10) working days prior to the scheduled hearing date. After the terms of a consent order have been prepared, the Board's Executive Director, shall have the authority to accept, reject or modify the terms of a consent order. When a mutually acceptable consent order has been accepted by the Board's Executive Director, it shall be binding on the Board, but not effective until full Board approval. Notwithstanding, it is still the responsibility of the respondent to personally appear before the Board on the scheduled hearing date to answer any questions which the Board may have prior to full Board approval.
- 1006 If the parties to the informal settlement conference are unable to reach a mutually agreeable consent order and the matter is to proceed to a full Board hearing, the parties shall agree in writing by stipulation, to the following:
1. Any undisputed claims, facts, testimony, documents or issues.
 2. Evidence to be introduced without objection.
 3. An estimate of the time required for the hearing.

Formal Hearing

- 1100 At a disciplinary hearing, opportunity shall be given to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for full and true disclosure of the facts and disposition of the matter.
- 1101 All testimony and other proceedings shall be recorded by a certified stenographer who shall be retained by the Board.

- 1102 During the disciplinary hearing, the Board's President, acting as the presiding officer, or his or her designee, shall rule on all evidentiary questions, but in his or her discretion may consult with the entire panel in executive session. At such hearing, the Board may be assisted by the Mississippi Attorney General, or his or her designee, who shall not have been involved in any way with the case otherwise. The Board's presiding officer may delegate ruling on procedural and evidentiary issues to the Attorney General or his or her designee.
- 1103 In all disciplinary hearings before the Board, the record of the case shall include:
1. The summons and affidavit issued.
 2. The respondent's answer to the summons and affidavit.
 3. All pleadings, motions, and rulings issued.
 4. Evidence received or considered at the hearing.
 5. Offers of proof, objections, and rulings thereon.
 6. The Board's order or other disposition made by the Board.
- 1104 Disciplinary hearings before the Board shall be conducted in the following order:
1. Opening statements.
 2. Complaint counsel's case in chief.
 3. Respondent's case in chief.
 4. Complaint counsel's rebuttal.
 5. Closing statements.
- 1105 Questioning of witnesses shall be conducted in the following order:
1. Direct examination.
 2. Cross-examination.
 3. Redirect examination.
- 1106 Upon conclusion of the hearing, the Board shall conduct its deliberations in Executive Session, outside the presence of the parties. The Board shall then render its Determination and Order, setting forth Findings of Fact, Conclusions of Law and Order. Although the Board's decision may be announced immediately following deliberations, the Board shall be provided adequate time for preparation of the written determination and order. A copy of such determination and order shall be sent by certified mail, or served personally upon the respondent. The decision of the Board revoking, suspending or otherwise disciplining respondent shall become final thirty (30) days after so mailed or served unless within said period the respondent appeals the decision to the Chancery Court, as provided by law.

Reinstatement of License

- 1200 The procedural requirements enumerated above shall also apply to petition duly filed with the Board seeking reinstatement of a license pursuant to Section 73-25-32, Mississippi Code.

Effective Date of Regulations

- 1300 The above procedural rules and regulations shall become effective June 19, 1995.

- 1301 The above Rules of Procedure are adopted by the Board to implement its authority to investigate alleged violations of the Mississippi Medical Practice Act, conduct hearings on disciplinary matters, and consider petitions for termination of probationary and suspended licenses and restoration of revoked licenses, all as enumerated in Section 73-43-11, Mississippi Code.
- 1302 The above Rules of Procedure shall not be interpreted to alter or amend that which is otherwise provided by Mississippi statutory law.

Amended May 17, 2007.

Chapter 27 Administrative Rules

Method of Operation

- 100 Scope
This regulation is promulgated pursuant to Mississippi Code, Section 25-43-2.104 of the Mississippi Administrative Procedures Law.
- 101 Description of the Mississippi State Board of Medical Licensure
1. Reference is made to Title 73, Chapter 43 of the Mississippi Code, which establishes the Mississippi State Board of Medical Licensure (“the Board”) and sets forth its composition, general powers and duties. Further reference is made to the following additional provisions of Mississippi law:
 - a. Title 73, Chapter 25, which sets forth the Board’s specific powers and duties in relation to licensure and discipline of physicians and osteopaths.
 - b. Title 73, Chapter 26, which sets forth the Board’s specific powers and duties in relation to licensure and regulation of physician assistants.
 - c. Title 73, Chapter 27, which sets forth the Board’s specific powers and duties in relation to licensure and discipline of podiatrists.
 - d. Title 41, Chapter 58, which sets forth the Board’s specific powers and duties in relation to licensure and regulation of radiologist technicians and assistants.
 - e. Title 41, Chapter 29, which sets forth the Board’s specific powers and duties in relation to investigations of potential violations of the Mississippi Controlled Substance Laws.
 2. Regulations adopted by the Board pursuant to the various authorities cited above are referred to as the Rules and Regulations of the Mississippi State Board of Medical Licensure. Pursuant to Mississippi Code, Section 73-43-13, the Board employs an Executive Director. The Board’s staff is organized into two (2) divisions: Licensure, which addresses matters related to the licensure of physicians, osteopaths, physician assistants, podiatrists, and radiologist technicians and assistants; and, Investigations, which investigates matters or allegations related to the potential violation of any state statute or regulation under the Board’s jurisdiction.
- 102 Where and How to Obtain Public Information
The text of all Board rules and regulations, as well as information regarding pending rules, regulations, schedules of meetings and the like may be obtained by visiting the Board’s website at www.msbml.state.ms.us. Requests for Declaratory Opinions may be made pursuant to Section 300 of these rules. Otherwise, requests for information may be made pursuant to and in accordance with the Mississippi Open Records Act by submitting written request to the Board’s current mailing address.

Oral Proceedings on Proposed Rules

200 Scope

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

201 When Oral Proceedings Will Be Scheduled on Proposed Rules

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

202 Request Format

Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8 ½” by 11”). Requests may be in the form of a letter addressed to the Board and signed by the requestor(s).

203 Notification of Oral Proceeding

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

204 Presiding Officer

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

205 Public Presentations and Participation

1. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
2. Persons wishing to make oral presentations at such a proceeding shall notify the Board at least one business day prior to the proceeding and indicate the general subject of their presentation. For good cause shown, the presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Board.
3. At the proceeding, all those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
4. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

5. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
6. There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion (i) recognize Board members for questions of the participant, or (ii) interrupt or end the participant's time where the orderly conduct of the proceeding so requires. Should the presiding officer recognize a member of the Board for questions during the participant's presentation, additional time will be afforded the participant in making his or her presentation.

206 Conduct of Oral Proceeding

1. Presiding Officer

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

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

Declaratory Opinions

300 Scope

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

301 Persons Who May Request Declaratory Opinions

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

- 302 **Subjects Which May Be Addressed in Declaratory Opinions**
The Board will issue declaratory opinions regarding the applicability to specified facts of: (i) a statute administered or enforced by the Board; or (ii) a rule or regulation promulgated by the Board.
- 303 **Written Request Required**
Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8 ½" by 11"). Requests may be in the form of a letter addressed to the Board. No oral, telephone or e-mail requests for declaratory opinions will be accepted.
- 304 **Where to Send Requests**
All requests must be mailed, hand-delivered or transmitted via facsimile to the Board's current mailing address or current facsimile number.
- 305 **Question Presented**
Each request shall contain the following:
1. A full, complete and accurate statement of all relevant facts on which the opinion is requested, presented in a clear and concise manner.
 2. A citation to the statute, rule or regulation at issue.
 3. The question(s) sought to be answered in the opinion, stated clearly.
 4. A suggested proposed opinion from the requestor, stating the answers desired by the petitioner and a summary of the reasons in support of those answers.
 5. The identity of all other persons known to the requestor who may be involved in or impacted by the described factual situation, including the relationship of each to the facts, name, mailing address and phone number.
 6. A statement that the person seeking the opinion has a substantial interest in the subject matter, and sufficient information to support that statement.
- 306 **Name, Address and Signature of Requestor**
Each request must include the full name, telephone number and mailing address of the requestor. All requests must be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in this regulation.
- 307 **Circumstances in Which Declaratory Opinions Will Not Be Issued**
The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not limited to:
1. The request is not made with sufficient clarity to facilitate the rendering of a declaratory opinion, or the request does not provide a complete or accurate statement of all relevant facts.
 2. There exists pending or anticipated litigation, or a pending administrative or disciplinary action, or other adjudication, which has as its subject the precise question presented to the Board for declaratory opinion, the conclusion of which will resolve the question.
 3. The statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request.
 4. The facts presented in the request are not sufficient to answer the question presented.
 5. The request fails to contain information required by this regulation or the requestor failed to follow the procedures established by this regulation.

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

308 Time for Board's Response

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

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

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

309 Effective Date of Declaratory Opinions

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

310 Notice to Third Parties

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

311 Public Availability of Requests and Declaratory Opinions

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Mississippi Public Records Act. All declaratory opinions and requests shall be indexed by name of requestor and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

312 Effect of a Declaratory Opinion

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

Adopted November 9, 2006.

For Office Use Only	
Date Received	Reviewed By

APPENDIX A

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

PLEASE
PRINT IN INK OR TYPE

Name:			
_____	_____	_____	_____
Last	First	Middle	MS License Number

Indicate how credentialed: _____ Board certification _____ Alternative credentialing

Explain:

Primary surgical practice location	Surgical Level(s) (II and/or III)

List physical address of all locations	
1 .	
2 .	
3 .	

List procedures to be performed in office:

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

Signature _____ Date _____

RETURN BY MAIL TO:
Mississippi State Board of Medical Licensure
1867 Crane Ridge Drive, Suite 200-B
Jackson MS 39216

APPENDIX B

SURGICAL EVENT REPORT FORM

NOTE: Chapter 15 of the Rules & Regulations of the Mississippi State Board of Medical Licensure requires surgeons to report any surgical event to the Board within 15 days of the event. A "surgical event" is recognized as a potentially harmful or life threatening episode related to either the anesthetic or the surgery. Any "surgical event" in the immediate peri-operative period that must be reported are those which are life-threatening, require special treatment, or require hospitalization, including, but not limited to the following: (1) serious cardiopulmonary or anesthetic events; (2) major anesthetic or surgical complications; (3) temporary or permanent disability; (4) coma; or (5) death.

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

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

RETURN BY MAIL TO:

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

APPENDIX C

ADMINISTRATION/DISPENSATION LOG AND PERPETUAL INVENTORY

Demerol 50mg/ml Inj. (1ml)

Drug Name and Strength (One drug per page)

Physician Name: Dr. Doolittle

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

APPENDIX D

ADMINISTRATION/DISPENSATION LOG AND PERPETUAL INVENTORY

Drug Name and Strength (One drug per page)

Physician Name:

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