RULES and REGULATIONS: PRESCRIBING CONTROLLED SUBSTANCES IN MS.
Mississippi State Board of Medical Licensure
June 24, 2016
Thomas Washington, CMBI
Mississippi State Board of Medical Licensure

This agency was created as an independent state agency by the Mississippi State Legislature effective 1981. This Board is responsible solely for licensing and regulating the practice of Physicians (M.D. / D.O.), Podiatrists (D.P.M.), Physician Assistants (P.A.), Acupuncturists and Radiologist Assistants (R.A.) in the State of Mississippi.
Powers and Duties of the Board

- Consider applications for licensure
- Setting policies, professional standards regarding the practice of medicine
- Promulgate and publish rules and regulations
- Investigate alleged violations of the medical practice act or controlled substances act
- Conduct hearings
- Consider petitions
Case Types

- Fraud in the Procurement of a License
- Convictions of Crimes
- Unprofessional, Immoral, Dishonorable Conduct
- Incompetence, Negligence, Malpractice
- Substance Abuse
- Improper Handling of Controlled Substances
- Sexual Relations with Clients
- Assisting the Unauthorized Practice of the Profession
Part 2645 Chapter 1: Rules of Procedure

Rule 1.4 Initiation of Disciplinary Action.
The National Practitioner Data Bank (NPDB), or "the Data Bank"
Must Report within 30 days of action taken

Federation of State Medical Boards
Must Submit to Federation within 24 hrs of action taken

Department of Health & Human Services, Regional Inspector General
American Medical Association
Novitas Solutions, Inc., Provider Enrollment, Medicare Part B Claims
Disability Determination Services
Medical Assurance Company of Mississippi
Mississippi Division of Medicaid
Mississippi State Board of Nursing
Mississippi Board of Pharmacy
Mississippi State Medical Association
Medical Assurance Co of Mississippi
U.S. Drug Enforcement Administration
Public Citizen Advocacy Groups
Investigative Division Duties

- Conduct interviews
- Inventory and accountability audits
- Clinic inspections
- Perform analysis of patient records and pharmacy profiles
- Serve administration inspection warrants, subpoenas, and summonses
- Compliance monitoring
HIPAA
45 CFR 164.501
45 CFR 164.512(d)
45 CFR 164.512(e)

MSBML
Title 30, Part 2640
Rule 1.4
MS Code Section 73-25-28
Right of Board of Medical Licensure to Examine Records

Order of authority to inspect and copy any record substantiating, documenting, or relating to incident reports, patient records, medical staff reports, investigative committee reports, credential committee reports, oral/written statement, photographs, or any other documents that would assist the Board in its investigation.
Prescribing Issues

- Suspicious prescribing patterns
- Selling prescriptions
- Clinic drug stock obtained by prescription
- Pre-signed blank prescriptions
Titus B. Atchoo, M.D.
2323 Get Well Drive
Chunky, MS 39323
601-123-1234

Dispense as Written __________________________
Substitution Permissible ______________________

Drugs Total _____

1
Sig:

2
Sig:

3
Sig:

4
Sig:

5
Sig:
The DEA is aware that pharmacists are sometimes presented with prescriptions for Schedule II controlled substances that are missing information required for a valid prescription under state or federal law.

In accordance with DEA regulations, pharmacists have a corresponding responsibility with practitioners for the proper prescribing and dispensing of controlled substances and must ensure that prescriptions for controlled substances conform in all essential respects to the law and regulations. Title 21, Code of Federal Regulations, Section 1306.04(a) and 1306.05(1) (21 C.F.R. §§ 1306.04(a) and 1306.05(1)). In particular, DEA regulations require that all prescriptions for controlled substances be dated as of, and signed on, the day when issued and bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address, and registration number of the practitioner. 21 C.F.R. § 1306.05(a).

Whether it is appropriate for a pharmacist to make changes to the prescription, such as adding the practitioner’s DEA number to the prescription or correcting the patient’s name or address, varies case-by-case based on the facts present. Consequently, the DEA expects that when information is missing from or needs to be changed on a Schedule II controlled substance prescription, pharmacists use their professional judgment and knowledge of state and federal laws and policies to decide whether it is appropriate to make changes to that prescription after oral consultation with the prescribing practitioner.
Dear Registrant:

This correspondence outlines the policy of the Drug Enforcement Administration (DEA) regarding information a pharmacist may provide when it is missing from a prescription for a Schedule II controlled substance.

The DEA is aware that pharmacists are sometimes presented with prescriptions for Schedule II controlled substances that are missing information required for a valid prescription under state or federal law. In accordance with DEA regulations, pharmacists have a corresponding responsibility with practitioners for the proper prescribing and dispensing of controlled substances and must ensure that prescriptions for controlled substances conform in all essential respects to the law and regulations. Title 21, Code of Federal Regulations, Section 1306.04(a) and 1306.05(f) (21 C.F.R. §§ 1306.04(a) and 1306.05(f)). In particular, DEA regulations require that all prescriptions for controlled substances be dated as of, and signed on, the day when issued and bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address, and registration number of the practitioner. 21 C.F.R. § 1306.05(a). Whether it is appropriate for a pharmacist to make changes to the prescription, such as adding the practitioner’s DEA number to the prescription or correcting the patient’s name or address, varies case-by-case based on the facts present. Consequently, the DEA expects that when information is missing from or needs to be changed on a Schedule II controlled substance prescription, pharmacists use their professional judgment and knowledge of state and federal laws and policies to decide whether it is appropriate to make changes to that prescription after oral consultation with the prescribing practitioner.

To this end, pharmacists and other practitioners must be mindful of what dispensing-related activities violate the Controlled Substance Act (CSA). For instance, it is unlawful to knowingly or intentionally furnish false or fraudulent material information in, or omit any material information from any application, report, record, or other document required to be made, kept, or filed under the CSA; to dispense a controlled substance in violation of Title 21, United States Code, Section 829 (21 U.S.C. § 829), which includes requirements for a Schedule II controlled substance prescription; or to knowingly or intentionally use in the course of dispensing of a controlled substance a registration number that is fictitious, revoked, suspended, expired, or issued to another person. See e.g., 21 U.S.C. §§ 842(a)(1), (2), and (5), and 843(a)(2), (3), and (4)(A).

Should you have any questions pertaining to this matter, please contact your local DEA Field office, or you may contact the DEA Office of Diversion Control, Liaison and Policy Section, at (202) 307-7297.

Sincerely,

Louis J. Milione
Deputy Assistant Administrator
Office of Diversion Control
The Four Ds

- Dishonest
- Disabled
- Deceived
- Dated
Part 2640 Chapter 1: Rules Pertaining to Prescribing, Administering and Dispensing of Medication
Rule 1.4 Maintenance of Records and Inventories.

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

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

A determination as to whether a “good faith prior examination and medical indication therefore” exists depends upon the facts and circumstances in each case. One of the primary roles of a physician is to elicit detailed information about the signs and symptoms which a patient presents in order that he or she may recommend a course of treatment to relieve the symptoms and cure the patient of his or her ailment or maintain him or her in an apparent state of good health. In order for a physician to achieve a proper diagnosis and treatment plan, a history and physical examination consistent with the nature and complaint are necessary. The importance of these aspects of proper medical practice cannot be over emphasized. The paramount importance of a complete medical history in establishing a correct diagnosis is well established. Standards of proper medical practice require that, upon any encounter with a patient, in order to establish proper diagnosis and regimen of treatment, a physician must take three steps: (a) take and record an appropriate medical history, (b) carry out an appropriate physical examination, and (c) record the results. The observance of these principles as a function of the “course of legitimate professional practice” is particularly of importance in cases in which controlled substances are to play a part in the course of treatment. It is the responsibility of the physician to dispense, prescribe or administer such drugs with proper regard for the actual and potential dangers. This fact has been established in a number of closely related administrative and criminal cases, United States v. Bartee, 479 F.2d 484 (10th Cir. 1973) (No physical examination prior to issuance of prescriptions for controlled substances); United States v. Greene, 511 F.2d 1062 (7th Cir. 1975);
§1305.05 Power of attorney.

PART 1305 — ORDERS FOR SCHEDULE I AND II CONTROLLED SUBSTANCES

Subpart A — GENERAL REQUIREMENTS

(a) A registrant may authorize one or more individuals, whether or not located at his or her registered location, to issue orders for Schedule I and II controlled substances on the registrant’s behalf by executing a power of attorney for each such individual, if the power of attorney is retained in the files, with executed Forms 222 where applicable, for the same period as any order bearing the signature of the attorney. The power of attorney must be available for inspection together with other order records.

(b) A registrant may revoke any power of attorney at any time by executing a notice of revocation.
## PRICES FOR DRUGS IN DEMAND ON MISSISSIPPI STREETS

<table>
<thead>
<tr>
<th>Drug</th>
<th>Quantity/Ingredient</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>HYDROCODONE</td>
<td>7.5mg/325</td>
<td>$5</td>
</tr>
<tr>
<td>HYDROCODONE</td>
<td>10mg</td>
<td>$10</td>
</tr>
<tr>
<td>ADDERALL</td>
<td>20mg</td>
<td>$7</td>
</tr>
<tr>
<td>SOMA</td>
<td>350mg</td>
<td>$3</td>
</tr>
<tr>
<td>OXYCODONE</td>
<td></td>
<td>$1 per mg</td>
</tr>
<tr>
<td>VALIUM</td>
<td>5mg</td>
<td>$5</td>
</tr>
<tr>
<td>XANAX</td>
<td>2mg</td>
<td>$7.50</td>
</tr>
<tr>
<td>SUBUTEX</td>
<td>8mg</td>
<td>$25</td>
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<tr>
<td>ULTRAM</td>
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<td>$1 per tablet</td>
</tr>
<tr>
<td>PEROCOCET</td>
<td>10mg</td>
<td>$5</td>
</tr>
<tr>
<td>PROMETHAZINE W/ CODEINE</td>
<td></td>
<td>$70 per ounce</td>
</tr>
<tr>
<td>OPANA</td>
<td>10mg</td>
<td>$30</td>
</tr>
</tbody>
</table>
WE WANT YOU!

- EXPERT REVIEW
- SPECIALTY CONSULTANTS
- EXPERT WITNESS
- CASE REVIEW OF PROCEDURES & PRACTICES
- WRITTEN AND/OR ORAL OPINIONS
MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

COMMUNICATION

JURISDICTIONAL OVERLAP

STATE & FEDERAL LAW ENFORCEMENT
Miss. woman gets life in silicone buttocks injection case

2014
ADMINISTRATIVE INSPECTION AND SEARCH WARRANT

STATE OF MISSISSIPPI
COUNTY OF HOLMES

TO ANY LAWFUL OFFICER OF HOLMES COUNTY
OR ANY OFFICER OR EMPLOYEE OF THE
INVESTIGATIVE UNIT OF THE MISSISSIPPI STATE BOARD
OF MEDICAL LICENSURE

The oath of the Affiant, INVESTIGATOR NAME, having been made before the undersigned, that Affiant has good reason to believe and does believe that patient charts, files, prescription pads, order forms, purchase invoices, inventory and accountability logs and/or records relating to the prescribing, administering and dispensing of controlled substances hereafter described are now being maintained in or about the following place in this county:

A medical office building that is located approximately one-third of a mile south of the intersection of Mississippi Highway ** and N*** Avenue, within *** *** County, Mississippi. The building is a one story, brick and light colored, residential structure converted to commercial use as a medical clinic at 888 N*** Avenue. The front of the property is paved with concrete to provide parking and there is a single vehicle carport within the right side of the building. Signage upon the building identifies it as Dr. *** ****, M.D. The clinic is accessed via a door from the front parking area.
Contacts
Mississippi State Board of Medical Licensure
601-987-3079

Thomas Washington
Investigative Bureau Director