

By: Representatives Currie, Bounds

To: Public Health and Human  
ServicesHOUSE BILL NO. 294  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-29-137.1, MISSISSIPPI CODE OF  
2 1972, TO DELETE THE REPEALER ON THE SECTION THAT AUTHORIZES  
3 MEDICAL DIRECTORS OF HOSPICES TO PRESCRIBE CONTROLLED SUBSTANCES  
4 FOR PATIENTS OF THE HOSPICE FOR TERMINAL DISEASE PAIN WITHOUT  
5 HAVING AN IN-PERSON FACE-TO-FACE VISIT WITH A PATIENT BEFORE  
6 ISSUING A PRESCRIPTION; TO AMEND SECTION 41-29-137, MISSISSIPPI  
7 CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; TO AMEND  
8 SECTION 41-85-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE  
9 DEPARTMENT OF HEALTH TO ISSUE UP TO TWO NEW PEDIATRIC PALLIATIVE  
10 CARE HOSPICE LICENSES DURING A CERTAIN PERIOD OF TIME; TO REQUIRE  
11 THAT AT LEAST ONE OF THE NEW HOSPICE LICENSES BE ISSUED TO AN  
12 APPLICANT THAT IS LOCATED WITHIN THE SECOND UNITED STATES  
13 CONGRESSIONAL DISTRICT; TO EXTEND THE DATE OF THE REPEALER ON THE  
14 MORATORIUM ON THE ISSUANCE OF NEW HOSPICE LICENSES; AND FOR  
15 RELATED PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1.** Section 41-29-137.1, Mississippi Code of 1972, is  
18 amended as follows:

19 41-29-137.1. The medical director of a licensed hospice, in  
20 his or her discretion, may prescribe controlled substances for a  
21 patient of the hospice for terminal disease pain without having an  
22 in-person face-to-face visit with the patient before issuing the  
23 prescription. The provisions of this section supersede the



provisions of any rule or regulation of a licensing agency to the contrary. \* \* \*

**SECTION 2.** Section 41-29-137, Mississippi Code of 1972, is amended as follows:

41-29-137. (a) (1) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II, as set out in Section 41-29-115, may be dispensed without the written valid prescription of a practitioner. A practitioner shall keep a record of all controlled substances in Schedule I, II and III administered, dispensed or professionally used by him otherwise than by prescription.

(2) In emergency situations, as defined by rule of the State Board of Pharmacy, Schedule II drugs may be dispensed upon the oral valid prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of Section 41-29-133. No prescription for a Schedule II substance may be refilled unless renewed by prescription issued by a licensed medical doctor.

(b) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, as set out in Sections 41-29-117 and 41-29-119, shall not be dispensed without a written or oral valid prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date



thereof or be refilled more than five (5) times, unless renewed by the practitioner.

(c) A controlled substance included in Schedule V, as set out in Section 41-29-121, shall not be distributed or dispensed other than for a medical purpose.

(d) An optometrist certified to prescribe and use therapeutic pharmaceutical agents under Sections 73-19-153 through 73-19-165 shall be authorized to prescribe oral analgesic controlled substances in Schedule IV or V, as pertains to treatment and management of eye disease by written prescription only.

(e) Administration by injection of any pharmaceutical product authorized in this section is expressly prohibited except when dispensed directly by a practitioner other than a pharmacy.

(f) (1) For the purposes of this article, Title 73, Chapter 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it pertains to prescriptions for controlled substances, a "valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by:

(A) A practitioner who has conducted at least one (1) in-person medical evaluation of the patient, except as otherwise authorized by Section 41-29-137.1 \* \* \*; or

(B) A covering practitioner.

(2) (A) "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical



74 presence of the practitioner, without regard to whether portions  
75 of the evaluation are conducted by other health professionals.

76 (B) "Covering practitioner" means a practitioner  
77 who conducts a medical evaluation other than an in-person medical  
78 evaluation at the request of a practitioner who has conducted at  
79 least one (1) in-person medical evaluation of the patient or an  
80 evaluation of the patient through the practice of telemedicine  
81 within the previous twenty-four (24) months and who is temporarily  
82 unavailable to conduct the evaluation of the patient.

83 (3) A prescription for a controlled substance based  
84 solely on a consumer's completion of an online medical  
85 questionnaire is not a valid prescription.

86 (4) Nothing in this subsection (f) shall apply to:

87 (A) A prescription issued by a practitioner  
88 engaged in the practice of telemedicine as authorized under state  
89 or federal law; or

90 (B) The dispensing or selling of a controlled  
91 substance pursuant to practices as determined by the United States  
92 Attorney General by regulation.

93 **SECTION 3.** Section 41-85-7, Mississippi Code of 1972, is  
94 amended as follows:

95 41-85-7. (1) The administration of this chapter is vested  
96 in the Mississippi Department of Health, which shall:



97 (a) Prepare and furnish all forms necessary under the  
98 provisions of this chapter in relation to applications for  
99 licensure or renewals thereof;

100 (b) Collect in advance at the time of filing an  
101 application for a license or at the time of renewal of a license a  
102 fee of One Thousand Dollars (\$1,000.00) for each site or location  
103 of the licensee; any increase in the fee charged by the department  
104 under this paragraph shall be in accordance with the provisions of  
105 Section 41-3-65;

106 (c) Levy a fee of Eighteen Dollars (\$18.00) per bed for  
107 the review of inpatient hospice care; any increase in the fee  
108 charged by the department under this paragraph shall be in  
109 accordance with the provisions of Section 41-3-65;

110 (d) Conduct annual licensure inspections of all  
111 licensees which may be the same inspection as the annual Medicare  
112 certification inspection; and

113 (e) Promulgate applicable rules and standards in  
114 furtherance of the purpose of this chapter and may amend such  
115 rules as may be necessary. The rules shall include, but not be  
116 limited to, the following:

117 (i) The qualifications of professional and  
118 ancillary personnel in order to adequately furnish hospice care;

119 (ii) Standards for the organization and quality of  
120 patient care;

121 (iii) Procedures for maintaining records; and



(iv) Provision for the inpatient component of hospice care and for other professional and ancillary hospice services.

(2) All fees collected by the department under this section shall be used by the department exclusively for the purposes of licensure, regulation, inspection, investigations and discipline of hospices under this chapter.

(3) The State Department of Health shall not process any new applications for hospice licensure or issue any new hospice licenses, except renewals \* \* \*, except as follows:

(a) \* \* \* The department shall process applications for new hospice licenses filed during the period from and including March 27, 2017, through and until July 1, 2017, and shall issue no more than five (5) new hospice licenses in accordance with this chapter so long as the related applicant can show good cause for the issuance of the hospice license(s) for which application is made (including specifically, without limitation, the capability and capacity to provide unique or otherwise unavailable services related to serving patients under eighteen (18) years of age in the service area to which such application relates). If the applicant at the time of filing holds one or more hospice licenses, the applicant must be in good standing with the department regarding those licenses. Not more than two (2) of the new hospice licenses issued under this \* \* \* paragraph (a) shall be issued to the same applicant.



147           (b) The department shall process applications for new  
148 pediatric palliative care hospice licenses filed during the period  
149 from and including the effective date of this section through and  
150 until July 1, 2021, and shall issue no more than two (2) new  
151 pediatric palliative care hospice licenses in accordance with this  
152 chapter so long as the applicant can show good cause for the  
153 issuance of the hospice license for which application is made. If  
154 the applicant at the time of filing holds one or more hospice  
155 licenses, the applicant must be in good standing with the  
156 department regarding those licenses. At least one (1) of the new  
157 hospice licenses issued under this paragraph (b) shall be issued  
158 to an applicant that is located within the Second United States  
159 Congressional District as it exists on January 1, 2021. Not more  
160 than one (1) of the new hospice licenses issued under this  
161 paragraph (b) shall be issued to the same applicant.

162           This subsection (3) shall stand repealed on July 1, \* \* \*  
163 2027.

164           (4) The provisions of subsection (3) prohibiting the  
165 processing of any new applications for hospice licensure shall not  
166 be applicable to an application for license reinstatement by a  
167 hospice whose license was temporarily suspended as a result of a  
168 federal audit by the U.S. Department of Health and Human Services,  
169 Office of Inspector General (HHS-OIG), and the audit has been  
170 concluded without any penalty imposed by the federal agency.



171           **SECTION 4.** This act shall take effect and be in force from  
172 and after its passage.

