

Senate Amendments to House Bill No. 294

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

28 41-29-137. (a) (1) Except when dispensed directly by a
29 practitioner, other than a pharmacy, to an ultimate user, no
30 controlled substance in Schedule II, as set out in Section
31 41-29-115, may be dispensed without the written valid prescription
32 of a practitioner. A practitioner shall keep a record of all
33 controlled substances in Schedule I, II and III administered,

34 dispensed or professionally used by him otherwise than by
35 prescription.

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

43 (b) Except when dispensed directly by a practitioner, other
44 than a pharmacy, to an ultimate user, a controlled substance
45 included in Schedule III or IV, as set out in Sections 41-29-117
46 and 41-29-119, shall not be dispensed without a written or oral
47 valid prescription of a practitioner. The prescription shall not
48 be filled or refilled more than six (6) months after the date
49 thereof or be refilled more than five (5) times, unless renewed by
50 the practitioner.

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

54 (d) An optometrist certified to prescribe and use
55 therapeutic pharmaceutical agents under Sections 73-19-153 through
56 73-19-165 shall be authorized to prescribe oral analgesic
57 controlled substances in Schedule IV or V, as pertains to
58 treatment and management of eye disease by written prescription
59 only.

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

63 (f) (1) For the purposes of this article, Title 73, Chapter
64 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it
65 pertains to prescriptions for controlled substances, a "valid
66 prescription" means a prescription that is issued for a legitimate
67 medical purpose in the usual course of professional practice by:

68 (A) A practitioner who has conducted at least one
69 (1) in-person medical evaluation of the patient, except as
70 otherwise authorized by Section 41-29-137.1 through June 30, 2021;
71 or

72 (B) A covering practitioner.

73 (2) (A) "In-person medical evaluation" means a medical
74 evaluation that is conducted with the patient in the physical
75 presence of the practitioner, without regard to whether portions
76 of the evaluation are conducted by other health professionals.

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

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

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

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

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

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

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

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

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

107 (c) Levy a fee of Eighteen Dollars (\$18.00) per bed for
108 the review of inpatient hospice care; any increase in the fee

109 charged by the department under this paragraph shall be in
110 accordance with the provisions of Section 41-3-65;

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

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

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

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

122 (iii) Procedures for maintaining records; and

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

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

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

133 (a) * * * The department shall process applications for
134 new hospice licenses filed during the period from and including

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

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

161 than one (1) of the new hospice licenses issued under this
162 paragraph (b) shall be issued to the same applicant.

163 This subsection (3) shall stand repealed on July 1, * * *
164 2027.

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

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

SS08\HB294A.J

Eugene S. Clarke
Secretary of the Senate