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March 1, 2019

To the Members of the Mississippi Senate Public Health and Welfare Committee:

When the Mississippi Board of Medical Licensure (Board) adopted new regulations and policies regarding the prescribing practices of physicians as it relates to controlled substances, the Board redefined the usual course of hospice practice. By requiring a face-to-face examination of a hospice patient by a medical director within a "reasonable period of time to see and evaluate the patient," the Board ignored the national standard of care and usual course of professional practice in a hospice setting.

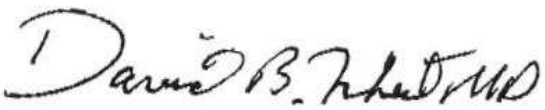
The Mississippi Academy of Family Physicians agrees with the Board that a face-to-face examination is essential to the physician-patient relationship in every medical setting except for the hospice setting. Hospice physicians are also the only doctors mandated by the Centers for Medicare and Medicaid Services to treat their hospice patients in active collaboration with a full multi-disciplinary team of registered nurses and other professional caregivers. Among other requirements, this care team must create a written plan of care for every patient and update these plans every fifteen days. It has been the long-standing national standard of practice among hospice practitioners to employ the professional team members who are continually and most frequently in contact with the patient, i.e., the registered nurse, to communicate with the physician in such a way as to not require the physician to be physically present for prescribing.

The Drug Enforcement Administration's Practitioner's Manual states the legal standard that a controlled substance may only be prescribed, administered, or dispensed for a legitimate medical purpose by a physician acting in the usual course of professional practice has been construed to mean that the prescription must be "in accordance with a standard of medical practice generally recognized and accepted in the United States." Federal courts have long recognized that it is not possible to expand on this phrase "legitimate medical purpose in the usual course of professional practice" in a way that will provide definitive guidelines to address all the varied situations physicians may encounter. This is especially applicable to physicians serving as hospice medical directors as the set of circumstances around a dying patient are much different than a regular, healthy patient needed to be treated for acute or chronic pain management. Further, federal law identifies the

rights of the hospice patient, the first of which is the right to receive effective pain management and symptom control from the hospice for the conditions related to the terminal illness. CMS interprets this as hospices being responsible for managing the patient's pain and symptoms related to the terminal illness and related conditions in a timely fashion. Patients should not have to experience long waits for pain and symptom management, medications, or interventions to address the patient's condition. Hospices should have methods in place to assure that the patient's pain, and all other distressing symptoms, are controlled effectively 24 hours a day/7days per week, in all settings and wherever the patient resides.

Hospice patients are some of the most vulnerable patients physicians treat. As the end of life nears, there is a great need to maintain the comfort level of patients as their body begins to shut down and prepares for death. Hospice patients are examined, assessed, diagnosed, and monitored by a team of healthcare professionals with a medical director trusting his fellow physicians who diagnose and transfer the patient to hospice care while working with mid-level providers and other members of the multi-disciplinary team to maintain and adjust treatment as necessary. Please consider the unique and special circumstances of hospice patients as well as the impracticality of the Board policy that will result in either physicians having to close clinics to travel to the homes of hospice patients to see the patient face-to-face in order to issue a valid prescription or physicians to stop treating hospice patients because they can't make the new policy work within the confines of their everyday practices. Family physicians are committed to working with all groups to curb the opioid crisis in the state and nation; however, hospice patients and this face-to-face requirement does not contribute to the national opioid crisis in general. This regulation and policy will not alleviate the crisis but will place an extra burden on our patients and their caregivers, especially in rural and underserved areas. Please support HB 1460 and request the Chairman of Public Health bring it up in committee as it would allow Mississippi physicians to treat hospice patients in accordance with the national standard and within the standard course of hospice practice.

With best regards,



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