

GUIDANCE REGARDING IV HYDRATION THERAPY FROM THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE

The proliferation of retail IV hydration therapy businesses causes the Board concern for public safety. Many clinics or spas engaging in this therapy are adopting business and/or practice models without realizing IV hydration therapy constitutes the practice of medicine, but those establishments do not have qualified staff legally authorized to perform the necessary tasks and satisfy minimum statutory and regulatory requirements. The Board staff regularly receives inquiries concerning the legal requirements and limits for IV hydration spas and clinics. The number of inquiries received is concerning, because this is NOT a complex issue.

To be clear and avoid any possible basis for misunderstandings: (1) IV hydration therapy constitutes the practice of medicine.¹ (2) IV fluids are legend drugs that must be purchased using a practitioner's DEA number. (3) Just as with any other medication, to satisfy legal and regulatory requirements, a practitioner with prescriptive authority must establish a valid practitioner/patient relationship, take an appropriate history, make a diagnosis necessitating IV therapy, develop a plan, and prescribe IV fluids for a specific patient. (4) After such a lawful prescription has been issued, qualified personnel such as Registered Nurses may administer IV fluids and monitor a patient for potential side effects. (5) Any IV hydration therapy practice or business model that does not satisfy these requirements is unlawful. (6) Licensees of this Board must at all times remain mindful that neither a business nor business owner can lawfully exercise control over the manner in which a physician provides medical services, nor interfere with the independent exercise of a physician's medical judgment.²

"Knowingly performing any act which in any way assists an unlicensed person to practice medicine," is unprofessional conduct and grounds for discipline. Miss. Code Ann. § 73-25-29. Such unprofessional conduct includes apparently common practices, such as participating in an IV hydration therapy spa or clinic in a position such as "medical director" without ensuring qualified personnel are performing each required task, and attempting to

¹ "The practice of medicine shall mean to suggest, recommend, prescribe, or direct for the use of any person, any drug, medicine, appliance, or other agency, whether material or not material, for the cure, relief, or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound or fracture or other bodily injury or deformity . . ." Miss. Code Ann. § 73-25-33.

² This Guidance is intended to offer only an overview of some of the issues raised by the operation of IV hydration therapy clinics and spas. States such as Alabama and South Carolina have published helpful documents which provide additional, extremely detailed guidance and commentary for practitioners. The Alabama State Board of Medical Examiners issued a Declaratory Ruling on July 21, 2022 concerning "retail IV therapy businesses." The Alabama Ruling is available at this link: https://www.albme.gov/uploads/pdfs/IVTherapy.Declaratory_Ruling_.pdf

On August 15, 2023, regulators in the State of South Carolina issued a "Joint Advisory Opinion of the South Carolina State Boards of Medical Examiners, Pharmacy, and Nursing Regarding Retail IV Therapy Businesses" that is available at this link: <https://llr.sc.gov/med/Policies/Joint-Position-Statement-Retail-IV-Therapy.pdf> Both the Alabama and South Carolina opinions are highly recommended and reflect that regulation of IV hydration therapy is not a problem limited to Mississippi, but is a nationwide issue of concern.

circumvent professional standards or regulatory requirements through the use of so-called "Standing Orders" that purport to permit registered nurses or other unqualified personnel to make diagnoses and prescribe IV medications. Delegation through such orders is insufficient to establish a valid licensee-patient relationship, constitutes unprofessional conduct, and is unlawful.

The Board's Administrative Code, Part 2640, Chapter 1, contains Rules Pertaining to Prescribing, Administering and Dispensing of Medication. Pursuant to Rule 1.11: "Prescriptions may not be written outside of a valid licensee-patient relationship." Elements of this valid relationship include:

- Verification of patient identity
- Conducting an appropriate history and physical examination of the patient that meets the applicable standard of care
- Establishing a diagnosis through the use of accepted medical practices, i.e., patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing
- Discussing diagnosis, risks, and benefits of various treatment options with the patient to obtain informed consent
- Insuring the availability of appropriate follow-up care, and
- Maintaining a complete medical record available to patient and other treating health care providers

Licensees must protect themselves and the public by ensuring that their participation in any business venture constituting the practice of medicine complies with legal and regulatory requirements, and satisfies all applicable professional standards. Public health and safety require no less.



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