

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 540
Department or Agency: Alabama Board of Medical Examiners
Rule No.: 540-X-25-.02
Rule Title: Definitions
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

William M. Perkins
William M Perkins

Date

Friday, January 19, 2024

REC'D & FILED

JAN 19, 2024

LEGISLATIVE SVC AGENCY

ALABAMA BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Medical Examiners

RULE NO. & TITLE: 540-X-25-.02 Definitions

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Amend to specify AMCC may also license a Cultivator; define Patient Capable of Conception; remove extraneous word in (20)(p); define Telemedicine; add missing words "shall mean" in (27).

This amendment meets the "protection of public health" exemption from the moratorium on rule amendments contained in Governor Ivey's Executive Order No. 735, Reducing "Red Tape" on Citizens and Businesses.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

All interested persons may submit data, views, or arguments concerning the proposed new rule(s) and regulation(s) in writing to: Carla Kruger, Office of the General Counsel, Alabama State Board of Medical Examiners, Post Office Box 946, Montgomery, Alabama 36101-0946, by mail or email (bme@albme.gov), until and including March 6, 2024. Persons wishing to submit data, views, or comments in person should contact Carla Kruger by telephone (334-242-4116) during the comment period. Copies of proposed rules may be obtained at the Board's website, www.albme.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, March 6, 2024

CONTACT PERSON AT AGENCY:

Carla Kruger

William M. Perkins

William M Perkins

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

540-X-25-.02

Definitions.

The following definitions shall apply to the rules in this chapter:

- (1) AMCC. The Alabama Medical Cannabis Commission created pursuant to Code of Ala. 1975, §20-2A-20.
- (2) BOARD. The Alabama State Board of Medical Examiners.
- (3) CANNABIS. All parts of any plant of the genus cannabis, excluding industrial hemp or hemp regulated under Code of Ala. 1975, §§2-8-380, et. seq., whether growing or not, including the seeds, extractions of any kind from any part of the plant, and every compound, derivative, mixture, product, or preparation of the plant.
- (4) CERTIFY. To confirm or diagnose through a medical examination in compliance with these rules that a patient has a qualifying medical condition that conventional medical treatment or therapy has failed to treat or for which medical cannabis is indicated by the current standard of care.
- (5) CHRONIC PAIN. A state in which pain persists beyond the usual course of an acute disease or healing of an injury (e.g., more than three (3) months), and which may or may not be associated with an acute or chronic pathological process that causes continuous or intermittent pain over a period of months or years.
- (6) CULTIVATOR. An entity licensed by the Department of Agriculture and Industries or the AMCC under Code of Ala. 1975, §20-2A-62 authorized to grow cannabis pursuant to Code of Ala. 1975, §§20-2A-1, et. seq.
- (7) DAILY DOSAGE. The total amount of one or more cannabis derivatives, including, but not limited to, cannabidiol and tetrahydrocannabinol, which may be present in a medical cannabis product that may be ingested by a registered qualified patient during a 24-hour period, as determined by a registered certifying physician.
- (8) DISPENSARY. An entity licensed by the AMCC under Code of Ala. 1975, §§20-2A-64 authorized to dispense and sell medical cannabis at dispensing sites to registered qualified patients and registered caregivers pursuant to Code of Ala. 1975, §§20-2A-1, et. seq.
- (9) DISPENSING SITE. A site operated by a dispensary licensee or an integrated facility licensee.
- (10) ECONOMIC INTEREST. The rights to either the capital or profit interests of an applicant or licensee or, if the applicant or licensee is a corporation, the rights to some portion of all classes of outstanding stock in the corporation.
- (11) INTEGRATED FACILITY. An entity licensed under Section 20-2A-67 authorized to perform the functions of a

cultivator, processor, secure transporter, and dispensary pursuant to Article 4.

(12) INTRACTABLE PAIN. Chronic pain for which, in the generally accepted course of medical practice, the cause cannot be removed or otherwise treated.

(13) LICENSEE OF THE AMCC. Any person, business, or other entity possessing, or seeking to obtain, a license issued by the Alabama Medical Cannabis Commission; including, but not limited to, a cultivator, dispensary, integrated facility, processor, or secure transporter.

(14) MEDICAL CANNABIS. A medical grade product that contains a derivative of cannabis for medical use by a registered qualified patient and is in a form set forth in Code of Ala. 1975, §20-2A-3(14)a. and shall not include any of the forms prohibited by Code of Ala. 1975, §20-2A-3(14)b.

(15) MEDICAL CANNABIS CARD. A valid card issued pursuant to Code of Ala. 1975, §20-2A-35.

(16) MEDICAL USE or USE OF MEDICAL CANNABIS or USE MEDICAL CANNABIS. The acquisition, possession, use, delivery, transfer, or administration of medical cannabis authorized by Code of Ala. 1975, §§20-2A-1, et. seq. These terms do not include possession, use, or administration of cannabis that was not purchased or acquired from a licensed dispensary.

(17) PATIENT REGISTRY. The Alabama Medical Cannabis Patient Registry System that is an electronic integrated system that tracks physician certifications, patient registrations, medical cannabis cards, the daily dosage and type of medical cannabis recommended to qualified patients by registered certifying physicians, and the dates of sale, amounts, and types of medical cannabis that were purchased by registered qualified patients at licensed dispensaries.

(18) PATIENT CAPABLE OF CONCEPTION. A patient possessing female reproductive organs who is between eleven (11) and fifty (50) years of age, excluding any patient who the registered certifying physician has confirmed to have had a hysterectomy or tubal ligation.

(19) PHYSICIAN CERTIFICATION. A registered certifying physician's authorization for a registered qualified patient to use medical cannabis.

~~(19)~~ (20) PROCESSOR. An entity licensed by the AMCC under Code of Ala. 1975, §20-2A-63 authorized to purchase cannabis from a cultivator and extract derivatives from the cannabis to produce a medical cannabis product or products for sale and transfer in packaged and labeled form to a dispensing site pursuant to Code of Ala. 1975, §§20-2A-1, et. seq.

~~(20)~~ (21) QUALIFYING MEDICAL CONDITION. Any of the following conditions or symptoms of conditions, but only after documentation indicates that conventional medical treatment or therapy has failed unless current medical treatment

indicates that use of medical cannabis is the standard of care:

- (a) Autism Spectrum Disorder (ASD).
- (b) Cancer-related cachexia, nausea or vomiting, weight loss, or chronic pain.
- (c) Crohn's Disease.
- (d) Depression.
- (e) Epilepsy or a condition causing seizures.
- (f) HIV/AIDS-related nausea or weight loss.
- (g) Panic disorder.
- (h) Parkinson's disease.
- (i) Persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to pregnancy, cannabis-induced cyclical vomiting syndrome, or cannabinoid hyperemesis syndrome.
- (j) Post Traumatic Stress Disorder (PTSD).
- (k) Sickle Cell Anemia.
- (l) Spasticity associated with a motor neuron disease, including Amyotrophic Lateral Sclerosis (ALS).
- (m) Spasticity associated with Multiple Sclerosis (MS) or a spinal cord injury.
- (n) A terminal illness.
- (o) Tourette's Syndrome.
- (p) A condition causing chronic or intractable pain in which conventional therapeutic ~~intervention~~ and opiate therapy is contraindicated or has proved ineffective.

~~(21)~~ (22) RECOMMEND. To authorize the daily dose and type of medical cannabis to be used by a registered qualified patient to treat a qualifying medical condition.

~~(22)~~ (23) REGISTERED CAREGIVER. An individual who meets the requirements described in subsection (c) of Code of Ala. 1975, §20-2A-30 and is authorized to acquire and possess medical cannabis and to assist one or more registered qualified patients with the use of medical cannabis.

~~(23)~~ (24) REGISTERED CERTIFYING PHYSICIAN. A physician authorized by the Board to certify patients for the use of medical cannabis.

~~(24)~~ (25) REGISTERED QUALIFIED PATIENT. Either of the following:

- (a) An adult who meets the requirements described in subsection (a) of Code of Ala. 1975, §20-2A-30 and is authorized to acquire, possess, and use medical cannabis pursuant to Code of Ala. 1975, §§20-2A-1, et. seq.
- (b) A minor who meets the requirements described in subsection (b) of Code of Ala. 1975, §20-2A-30 and is authorized to use medical cannabis pursuant to this chapter with the assistance of a registered caregiver.

~~(25)~~ (26) SECURE TRANSPORTER. An entity licensed by the AMCC under Code of Ala. 1975, §20-2A-65 authorized to transport

cannabis or medical cannabis from one licensed facility or site to another licensed facility or site.

~~(26)~~ (27) TELEMEDICINE. A form of telehealth referring to the provision of medical services by a physician at a distant site to a patient at an originating site via asynchronous or synchronous communications, or other devices that may adequately facilitate and support the appropriate delivery of care. The term includes digital health but does not include incidental communications between a patient and a physician.

(28) TERMINAL ILLNESS. An illness or physical condition which can reasonably be expected to result in death in six (6) months or less after the date of the certification.

~~(27)~~ (29) UNRESTRICTED. When referring to a license to practice medicine or osteopathy, an Alabama Controlled Substance Certificate (ACSC) registration, or a Drug Enforcement Administration (DEA) registration, shall mean a license, certificate, or registration which is unencumbered by any restriction or condition or which is otherwise not subject to current discipline, and which has not been revoked, suspended, placed on probation, or voluntarily surrendered within the past five (5) years.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Ala. 1975, §§34-24-53, 34-24-53.1; Act 2021-450 (Code of Ala. 1975, §§20-2A-1, et. seq.)

History: New Rule: Published March 31, 2022; effective May 15, 2022. **Amended:** Published ; effective .