

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 540
Department or Agency: Alabama Board of Medical Examiners
Rule No.: 540-X-25-.09
Rule Title: Limitations Upon Registered Certifying Physicians
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-.09 Limitations Upon Registered Certifying Physicians

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Amend to correct misspelled words; clarify that registered certifying physician shall not be located at a dispensing site; clarify that recertification and/or re-recommendation must take place while both parties are physically located in Alabama; to prohibit any form of telemedicine to be used when certifying, re-certifying, recommending, or re-recommending a patient for the use of medical cannabis or when conducting any examination associated therewith. 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)

Limitations Upon Registered Certifying Physicians.

- (1) Except for the limited purpose of performing a medical cannabis-related study, a registered certifying physician shall not accept, solicit, or offer any form of ~~renumeration~~remuneration from or to a qualified patient, designated caregiver, or any licensee of the AMCC, including a principal officer, board member, agent, or employee of the licensee, to certify a patient, other than accepting payment from a patient for a fee, not to exceed that which is customarily charged in the locality for physician services, associated with the examination, medical consultation, or other treatment, including, but not limited to, any third party reimbursement for the same.
- (2) A registered certifying physician shall not accept, solicit, or offer any form of ~~renumeration~~remuneration from or to a dispensary for the purpose of referring a patient to a specific dispensary.
- (3) A registered certifying physician shall not offer a discount ~~o~~for any other item of value to a qualified patient who uses or agrees to designate a specific registered caregiver or use a specific dispensary to obtain medical cannabis.
- (4) A registered certifying physician shall not hold a direct or indirect economic interest in a licensee of the AMCC.
- (5) A registered certifying physician shall not serve on the Board of Directors or as an employee of a licensee of the AMCC.
- (6) A registered certifying physician shall not refer qualified patients to a specific caregiver or a specific dispensary.
- (7) A registered certifying physician shall not advertise in a dispensary.
- (8) A registered certifying physician, or any practice, facility, business, or other entity with which they are affiliated, shall not advertise on a website, in brochures, or via any other media that generally describe the scope of practice of the physician as a "medical cannabis" or "medical marijuana" physician or doctor, or otherwise advertises his or her status as a registered certifying physician, other than stating the following: "Dr. _____ is qualified by the State of Alabama to certify patients for medical cannabis use under the Alabama Compassion Act."
- (9) A registered certifying physician shall not be located in the same office space as a dispensary or a dispensing site.
- (10) A registered certifying physician shall not recommend, or recertify or re-recommend a patient for the use of medical cannabis unless both the registered certifying physician and the patient are physically located in Alabama, and any examination, visit, or other consultation occurs while both parties are physically located in Alabama.

(11) At all times in the certification or recommendation of medical cannabis, a registered certifying physician shall only evaluate, diagnose, or certify those qualifying medical conditions for which he or she possesses the education, training, experience, and specialty training to evaluate, diagnose, or treat in his or her usual medical practice. A physician who recommends medical cannabis to a patient for treatment of a qualifying medical condition that the physician is not trained to treat with conventional medical treatment shall be in violation of these rules.

(12) A registered certifying physician is strictly prohibited from certifying or recommending, or recertifying or re-recommending, the use of medical cannabis to any patient who is pregnant, breastfeeding, or attempting to conceive.

(13) A registered certifying physician is prohibited from certifying or recommending, or recertifying or re-recommending, the use of medical cannabis to any patient who has been diagnosed with a condition for which cannabis is contraindicated under the current standard of care or by evidence-based research.

(14) A registered certifying physician is prohibited from utilizing any form of telemedicine when certifying or recommending, or recertifying or re-recommending, a patient for the use of medical cannabis, or when conducting any examination associated therewith.

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 _____ .