

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 545
Department or Agency: Medical Licensure Commission of Alabama
Rule No.: 545-X-4-.06
Rule Title: Unprofessional Conduct
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

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

Rebecca Robbins

Rebecca S Robbins

Date

Thursday, April 11, 2024

REC'D & FILED

APR 15, 2024

LEGISLATIVE SVC AGENCY

MEDICAL LICENSURE COMMISSION OF ALABAMA

NOTICE OF INTENDED ACTION

AGENCY NAME: Medical Licensure Commission of Alabama

RULE NO. & TITLE: 545-X-4-.06 Unprofessional Conduct

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Proposed rule amendment strengthening the language that prohibits the treatment of one's immediate family member or close personal friend.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

With an expected publication date of April 19, 2024, the public comment period ends June 04, 2024. The anticipated effective date is August 12, 2024.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, June 4, 2024

CONTACT PERSON AT AGENCY:

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Rebecca Robbins

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

Unprofessional Conduct.

Unprofessional conduct shall mean the Commission or omission of any act that is detrimental or harmful to the patient of the physician or detrimental or harmful to the health, safety, and welfare of the public, and which violates the high standards of honesty, diligence, prudence and ethical integrity demanded from physicians and osteopaths licensed to practice in the State of Alabama. Furthermore, without limiting the definition of unprofessional conduct in any manner, the Commission sets out the below as examples of unprofessional conduct:

(1) The refusal by a physician to comply, within a reasonable time, with a request from another physician for medical records or medical information when such request is accompanied by a properly executed authorization of the patient.

(2) Intentionally, knowingly or willfully causing or permitting a false or misleading representation of a material fact to be entered on any medical record of a patient.

(3) Intentionally, knowingly or willfully preparing, executing or permitting the preparation by another of a false or misleading report or statement concerning the medical condition or extent of disability of a patient.

(4) The prescribing, dispensing, administering, supplying or otherwise distributing of any Schedule II amphetamine and/or Schedule II amphetamine-like anorectic drug in violation of Code of Ala. 1975, §20-2-54, as amended in ActionAct No. 83-890, Special Session, 1983.

(5) The failure to report to the Alabama State Board of Medical Examiners any final judgment rendered against such physician during the preceding year or any settlement in or out of court during the preceding year, resulting from a claim or action for damages for personal injuries caused by an error, omission or negligence in the performance of his professional services without consent as required by Code of Ala. 1975, §34-24-56.

(6) The refusal or failure by a physician to comply with an order entered by the Medical Licensure Commission or by the Board of Medical Examiners issued pursuant to Code of Ala. 1975, Section 34-24-360(19) or (20) or pursuant to Code of Ala 1975, Section 34-24-361(h).

(7) Intentionally or knowingly making a false, deceptive or misleading statement in any advertisement or commercial solicitation for professional services and/or intentionally or knowingly making a false, deceptive or misleading statement about another physician or group of physicians in any advertisement or commercial solicitation for professional services.

- (8) Failure or refusal of a J-1 physician to comply with waiver service requirements stated in the J-1 Visa Waiver Affidavit and Agreement signed by a J-1 physician.
- (9) Conduct which is immoral and which is willful, shameful, and which shows a moral indifference to the standards and opinions of the community.
- (10) Conduct which is dishonorable and which shows a disposition to lie, cheat, or defraud.
- (11) Failing or refusing to maintain adequate records on a patient or patients.
- (12) Prescribing or dispensing a controlled substance to oneself or to one's spouse, child, sibling (including step- and half-siblings), parent, intimate partner, or to any other person where the physician's professional objectivity, the patient's autonomy, or informed consent are substantially compromised~~or parent~~, unless such prescribing or dispensing is necessitated by emergency or other exceptional circumstances.
- (13) Signing a blank, undated or predated prescription form.
- (14) Representing that a manifestly incurable disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if such is not the fact.
- (15) Refusing to divulge to the board or commission upon demand the means, method, procedure, modality of treatment, or medicine used in the treatment of a disease, injury, ailment or infirmity.
- (16) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or osteopathy or in applying for privileges or renewing an application for privileges at a health care institution.
- (17) Sexual misconduct in the practice of medicine as defined in Rule 545-X-4-.07.
- (18) Representing or holding oneself out as a medical specialist when such is not the case.
- (19) Failing to furnish information in a timely manner to the board or Commission if requested by the board or Commission.
- (20) Failing to report to the board in a timely manner information required to be reported by Code of Ala. 1975, Section 34-24-361(b).
- (21) Giving false testimony in any judicial or administrative proceeding.
- (22) The violation of any rule promulgated by the Alabama Board of Medical Examiners or the Medical Licensure Commission pursuant to their rule making authority as set forth in the Alabama Administrative Procedures Act.

(23) The refusal or failure by a physician to comply with any voluntary agreement entered into between the physician and the Board of Medical Examiners and/or the Commission.

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Statutory Authority: Code of Ala. 1975, §34-24-360(2).

History: Filed February 3, 1984. **Amended:** Filed June 4, 1985.

Amended: Filed July 11, 2000; effective August 15, 2000.

Amended: Filed March 4, 2003; effective April 8, 2003.

Amended: Filed June 24, 2005; effective July 27, 2005.

Amended: Filed December 10, 2018; effective January 24, 2019.

Amended: March 28, 2024; Published April 19, 2024; effective August 12, 2024.