

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 540
Department or Agency: Alabama Board of Medical Examiners
Rule No.: 540-X-4-.03
Rule Title: Renewal Of An Alabama Controlled Substances Certificate
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

Tuesday, December 17, 2024

REC'D & FILED

DEC 17, 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-4-.03 Renewal Of An Alabama Controlled
Substances Certificate

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Amend wording of questions regarding health.
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 Feb. 4, 2025. 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:

Tuesday, February 4, 2025

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)

Renewal Of An Alabama Controlled Substances Certificate.

- (1) Renewal of an Alabama Controlled Substances Certificate shall be annually on or before December 31 of each year.
- (2) An applicant for renewal of an Alabama Controlled Substances Certificate shall submit to the Board the required certificate fee of \$150.00.
- (3) Before renewing an Alabama Controlled Substances Certificate, the applicant shall have a current registration to access the Controlled Substances Prescription Database established and maintained by the Alabama Department of Public Health.
- (4) Before renewing an Alabama Controlled Substances Certificate, an applicant shall have a current and appropriate registration issued by the United States Drug Enforcement Administration.
- (5) The applicant shall disclose whether:
 - (a) Applicant's privilege for dispensing or prescribing controlled substances has ever been suspended, restricted, voluntarily surrendered while under investigation, or revoked in any state.
 - (b) Applicant has ever been convicted of any state or federal crime relating to any controlled substance or driving under the influence (DUI).
 - (c) Any Federal Drug Enforcement Administration registration ever held by applicant has ever been suspended, restricted, revoked or voluntarily surrendered while under investigation.
 - (d) Applicant's staff privileges at any hospitals have ever been suspended, restricted, or revoked for any reason related to the prescribing or dispensing of controlled substances.
 - (e) Applicant is currently engaged suffering from any condition that impairs their judgment or that would otherwise adversely affect their ability to practice medicine in a competent, ethical, and professional manner.
 - (f) Within the past five years, applicant has raised the issue of any physical or psychiatric health ~~the excessive use of alcohol, controlled substances, or the use of illegal drugs, or receiving any therapy or treatment for alcohol or drug use, sexual boundary issues or mental health issues.~~
 1. ~~If applicant is an anonymous participant in the Alabama Professionals Health Program and is in compliance with their assistance agreement, they may answer "No" to this question. Such answer for this purpose will not be deemed upon certification as providing false information to the Alabama Board of Medical Examiners.~~

~~2. The term "currently" as it is used in paragraph (5) above does not mean on the day of, or even in the weeks or months preceding the completion of the application. Rather, it means recently enough so that the condition referred to may have an ongoing impact on one's functioning as a physician within~~disorder as a defense, mitigation, or explanation for their actions during any administrative or judicial proceeding or investigation; any inquiry or other proceeding; or any proposed termination by an educational institution; employer; government agency; professional organization; or licensing authority.

~~(g) Applicant has read and understood the~~ the last two ~~years.~~

~~3. Applicant shall initial certifying an understanding of a statement of the duty as a licensee to address any such condition, which states as follows~~following ~~statement:~~

~~IMPORTANT:~~The Board recognizes that licensees encounter potentially impairing health conditions just as their patients and other health care providers do, including psychiatric or physical illnesses which may impact cognition, as well as substance use disorders. The Board expects its licensees to address their health concerns, both mental and physical, in a timely manner to ensure patient safety. Licensees should seek appropriate medical care and should limit their medical practice when appropriate and as needed. The Board encourages licensees to utilize the services of~~health conditions, including those involving mental health and substance use disorders, just as their patients and other health care providers do. The Board expects its licensees to address their health concerns and ensure patient safety. Options include anonymously self-referring to the~~ Alabama Professionals Health Program ~~(334-954-2596)~~, a physician advocacy organization dedicated to improving the health and wellness of medical professionals in a confidential manner. The failure to adequately address a health condition, where the licensee is unable to practice medicine with reasonable skill and safety to patients, can result in the Board taking action against the license to practice medicine.

~~(f)~~(h) Applicant dispenses controlled substances, other than pharmaceutical samples, from any practice location.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Ala. 1975, §20-2-51, Act No. 2013-256 (Amendment to §20-2-214.

History: **New Rule:** Filed November 14, 2013; effective December 19, 2013. **Amended:** Published December 30, 2022; effective February 13, 2023. **Amended:** Published _____ ; effective _____ .