

APA-2
6/93

**ALABAMA STATE BOARD
OF MEDICAL EXAMINERS**

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Board of Medical Examiners

RULE NO. & TITLE: 540-X-4-.05, Registration of Dispensing Physicians

INTENDED ACTION: To amend the rule to provide for a new Appendix (registration form)

SUBSTANCE OF PROPOSED ACTION: Amending rule concerning reference to Dispensing Physician's Registration Form

TIME, PLACE, 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: Patricia E. Shaner, General Counsel, Alabama State Board of Medical Examiners, Post Office Box 946, Montgomery, Alabama 36101-0946, by mail or in person between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, until and including December 5, 2017. Persons wishing to obtain copies of the text of this rule and submit data, views, or comments or arguments orally should contact Patricia E. Shaner, by telephone (334-242-4116) during said period in order to set up an appointment for a hearing respecting such oral data, views, or arguments. Copies may also be obtained at the Board's web site: www.albme.org.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: December 5, 2017

CONTACT PERSON AT AGENCY: Patricia E. Shaner, Esq.


Edward H. Munson, Jr., Acting Executive Director

540-X-4-.05 Registration of Dispensing Physicians.

(1) Every dispensing physician, as defined by this rule, is hereby required to register with the State Board of Medical Examiners as a dispensing physician.

Registration shall be accomplished on a form provided by the Board. After initially registering as a dispensing physician, it shall be the obligation of the registrant to advise the Board of any change in the practice location within the State of Alabama of that dispensing physician.

(2) For the purposes of this rule a "dispensing physician" shall mean any physician or osteopath licensed to practice medicine in Alabama who shall dispense or distribute to a patient for the patient's use any controlled substance, except prepackaged samples and/or starter packs, where such controlled substances are purchased by the physician or osteopath for resale to a patient whether or not a separate charge is made for the controlled substance. Prepackaged samples and starter packs shall mean those controlled substances which are packaged and labeled by the manufacturer in individual or small dosage units and which are intended to be distributed to patients for consumption or administration within a limited period of time. Controlled substances which are consumed by or which are administered to patients while being treated in the physician's office, clinic, hospital or other facility are not considered to be dispensed for the purposes of this rule. This registration requirement shall be applicable to all physicians or osteopaths who dispense or cause to be dispensed controlled substances for consumption or administration by patients off the premises of the clinic, hospital or other facility where the physician or osteopath practices, without respect to whether such controlled substances are purchased by an

individual physician or osteopath, a professional association or professional corporation, a for-profit or not-for-profit corporation, a hospital, clinic or other medical facility. This registration requirement shall not apply to the dispensing of controlled substances to patients treated in any hospital emergency room provided that (a) the patient has registered for treatment in the hospital emergency room and was treated by the emergency room physician on duty and (b) the controlled substances dispensed are subject to inventory, accounting and security controls and policies of the hospital pharmacy or the emergency room department. A controlled substance is any drug or substance listed in Schedules II through V of the Alabama Uniform Controlled Substance Act, Code of Ala. 1975, §§20-2-1, et seq.

(3) Within thirty (30) days after the effective date of this rule the Board of Medical Examiners shall cause a notice to be mailed to every licensed physician whose practice location is in the State of Alabama notifying them of the requirements of this rule and of the procedures for obtaining the required registration form. Every dispensing physician shall be required to file the registration form with the State Board of Medical Examiners within ninety (90) days of the effective date of this rule. Any physician or osteopath who on the effective date of this rule is not a dispensing physician but later becomes a dispensing physician is required to file the registration form with the Board within thirty (30) days of becoming a dispensing physician. On the effective date of this rule all physicians or osteopaths issued a certificate of qualification for licensure to practice medicine in Alabama will be provided with notice of the requirements of this rule.

(4) The form for registration of dispensing physicians is incorporated as

| Appendix BC to Chapter 4.

(5) Any physician who acts as a “dispensing physician,” as defined in this rule, and who has not registered with the Board as required by this rule may be assessed by the Board an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00), in addition to any other penalty authorized pursuant to Code of Ala. 1975, §20-2-54.

(6) Every dispensing physician registered with the Board shall report controlled substances information to the Alabama Department of Public Health according to the requirements of Code of Ala. 1975, §20-2-213 and regulations promulgated by the Alabama Department of Public Health pursuant to Code of Ala. 1975, §20-2-210, et. seq., concerning the controlled substances prescription database.

(7) A dispensing physician registered with the Board may be assessed an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00) for each failure to report to the Alabama Department of Public Health as required by this rule.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Ala. 1975, §20-2-50.

History: Filed September 19, 1986. Amended: Filed August 19, 1999; effective September 23, 1999. Amended: Filed April 13, 2006; effective May 18, 2006.

Amended/Approved: October 18, 2017.