

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 540 Department or Agency Alabama State Board of Medical Examiners

Rule No. 540-X-9-.11

Rule Title: Contact with Patients before Prescribing

New  Amend  Repeal  Adopt by Reference

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 and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

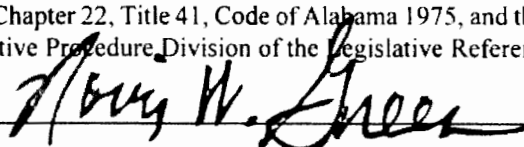
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Does the proposed rule have an economic impact? NO

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.

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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 Reference Service. REC'D & FILED

Signature of certifying officer 

Date: August 17, 2017

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**ALABAMA STATE BOARD  
OF MEDICAL EXAMINERS**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Alabama State Board of Medical Examiners

RULE NO. & TITLE: 540-X-9-.11, Contact with Patients before Prescribing


INTENDED ACTION: To amend the rule

SUBSTANCE OF PROPOSED ACTION: To amend the rule to take into consideration treatment via telehealth

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit data, views, or arguments concerning the proposed amendment in writing to Patricia E. Shaner, Office of General Counsel, Alabama State Board of Medical Examiners, Post Office Box 946, 848 Washington Avenue (36104), 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 October 5, 2017. Persons wishing to obtain copies of the text of this rule should contact Patricia E. Shaner, Office of General Counsel, (334-242-4116), P.O. Box 946, 848 Washington Avenue (36104), Montgomery, Alabama 36101-0946.

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

CONTACT PERSON AT AGENCY: Patricia E. Shaner

  
Norris W. Green, Executive Director

540-X-9-.11 Contact with Patients before Prescribing.

(1) It is the position of the Board that, when prescribing drugs/medications to an individual, the prescriber, when possible, has not should personally examined ~~is usually inappropriate~~ the patient. Before prescribing a drug/medication, a physician should make an informed medical judgment based on appropriate medical history, the circumstances of the situation and on his or her training and experience. ~~Ordinarily, this will require that the physician personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan, a part of which might be a prescription.~~ This process must be documented appropriately.

(2) Prescribing medications for a patient whom the physician has not personally examined may be suitable under certain circumstances. These circumstances may include; but not be limited to; electronic encounters such as those in telemedicine; admission orders for a patient newly admitted to a health care facility; prescribing for a patient of another physician for whom the prescribing physician is taking call; or continuing medication on a short-term basis for a new patient prior to the patient's first appointment. ~~Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.~~

~~(3) It is the position of the Board that prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.~~

(3) Licensees are expected to adhere to all federal and state statutes regarding the prescribing of controlled substances and all Alabama Board of Medical Examiners' Rules regarding the prescribing of controlled substances.

**Author:** Alabama Board of Medical Examiners

**Statutory Authority:** Code of Alabama § 34-24-53.

**History:** Approved for Publication January 19, 2000.

Approved/Adopted: March 15, 2000. Effective Date: April 21, 2000.