

APA-1
Revised 4/2018

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 540 Department or Agency Alabama State Board of Medical Examiners
Rule No. 540-X-19-.03
Rule Title: Pain Management Registration Required

New Amend Repeal Adopt by Reference

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 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

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 *Sarah A. Moore*

Date: February 20, 2019

ALABAMA STATE BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Medical Examiners

RULE NO. & TITLE: 540-X-19-.03, Pain Management Registration Required

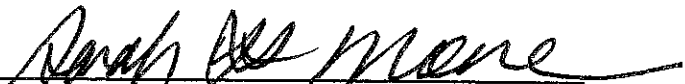
INTENDED ACTION: To amend the rule

SUBSTANCE OF PROPOSED ACTION: Add grounds for denial of a pain management registration

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: Carla H. Kruger, Office of the 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 April 4, 2019. Persons wishing to obtain copies of the text of this rule and submit data, views, or comments or arguments orally should contact Carla H. Kruger 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 can also be obtained at the Board's web site, www.albme.org.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: April 4, 2019

CONTACT PERSON AT AGENCY: Carla H. Kruger


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

540-X-19-.03 Pain Management Registration Required.

(1) Beginning January 1, 2014, and continuing every year thereafter, all physicians who provide pain management services must obtain a pain management registration from the Board.

(2) All physicians who otherwise meet the criteria established by the Board shall obtain a pain management registration from the Board.

(3) To obtain a pain management registration, a physician applicant shall submit the following to the Board:

- (a) A completed application on a form prescribed by the Board.
- (b) Proof of a current Drug Enforcement Administration (DEA) registration.
- (c) Proof of an Alabama Controlled Substance Certificate (ACSC).
- (d) Proof of a current registration with the Alabama Prescription Drug Monitoring Program (PDMP).
- (e) A list of all registrants who own, co-own, operate or provide pain management services in the physician applicant's practice location.
- (f) The disclosure of any controlled substances certificate or registration denial, restriction or discipline imposed on the registrant, or any disciplinary act against any medical license of the registrant.
- (g) Payment of the initial registration fees as set forth below in these rules under paragraph (6).
- (h) A certification listing the current name of the physician who serves as the medical director.
- (i) Any other information requested by the Board related to the qualifications for providing pain management services.

(4) The physician applicant shall provide the Board with a physical address for each location where he or she provides pain management services and a list of all physicians who work at the practice location, including the name of the physician who will serve as the medical director. If the applicant's practice location is a hospital, the applicant is not required to provide the names of physicians at the hospital other than the name of the medical director.

(5) Exemptions. The provisions of this rule shall not apply to any of the following:

(a) A hospice program as defined by and licensed by the Alabama Department of Public Health, or any physician while performing work or providing pain management services for that program.

(b) A facility maintained or operated by the United States or any of its departments, offices or agencies, or any physicians while performing work for that facility.

(c) In addition, the Board shall provide individual, entity and any categorical exemptions as, in its discretion, it deems appropriate.

(d) Any physician who is not included in subparagraphs (a) and (b) above may petition the Board for an exemption from the requirements of this rule for working at a particular entity. The Board shall have the sole discretion in determining whether the requested exemption shall be granted or denied.

(6) Fees.

(a) Initial Application Fees. All applicants for pain management registration shall submit an initial application fee in the amount of One Hundred Dollars (\$100.00).

(b) Renewal Fee. All applicants for renewal of their pain management registration shall submit a renewal fee in the amount of One Hundred Dollars (\$100.00).

(7) Miscellaneous.

(a) If an applicant does not complete the initial application process within 90 days of his or her first submission to the Board, the application shall be closed, the application fees shall not be refunded, and the applicant shall be required to reapply for registration.

(b) An application which is submitted to the Board may be withdrawn at any time prior to the granting or denial of registration; however the application fees shall not be refunded.

(8) Renewal.

(a) A registration by a physician under this rule shall expire on December 31 of each year.

(b) A registrant may renew a current registration prior to its expiration date by submitting the following to the Board:

1. A completed renewal application form prescribed by the Board,
2. The required renewal fees,
3. A certification that each location at which the applicant provides pain management services has a medical director,
4. If the practice location is not a hospital, an attestation that the practice location is not owned wholly or partly by a person who has been convicted of or pled nolo contendere to any of the following:

(i) A felony.

(ii) An offense that constitutes a misdemeanor, the facts of which relate to the distribution or illegal prescribing of any controlled substance.

(iii) Any applicant who has been convicted of a crime described in paragraph 4 may request an interview before the Board, after which the Board, in its discretion, may approve or deny the registration.

5. Any other information requested by the Board.

(9) Grounds for Denial of Registration

(a) The Board may deny issuance or renewal of a pain management registration to any applicant who:

1. Fails to meet any of the requirements set forth in Ala. Code §§ 34-24-600, et seq., or Alabama Administrative Code §§ 540-X-19-.01, et seq.:

2. Furnishes false, misleading, untruthful, or fraudulent information in connection with the application;

3. Discloses, or fails to disclose, any controlled substances certificate or registration denial, restriction, or discipline imposed on the applicant, or any disciplinary act against any medical license of the applicant;

4. At the time of the application, is under any state or federal restriction, probation, discipline, investigation, or indictment related to the provision of medical services or fraud; or

5. Is seeking to provide pain management services at a practice location where two or more licensees have committed violations under Ala. Code §§ 34-24-600, et seq., Ala. Code § 34-24-360, or Ala. Code §§ 20-2-50 through 20-2-78, inclusive.

(b) An applicant who is denied a pain management registration under this

section may petition the Board for reconsideration of the application. Any petition must be filed within thirty (30) days of denial of the registration. Upon receipt of the petition, the Board shall issue the registration or set a hearing thereon. The hearing shall be considered a contested case and shall be governed by the rules on reinstatement hearings in accordance with Alabama Administrative Rule 540-X-6-.02(1)(b)(3).

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama §§ 34-24-53, 34-24-600 through 610.

History: Approved for Publication: September 18, 2013. Effective Date:

December 19, 2013. Amended/Approved for Publication: April 16, 2014.

Emergency Rule Effective: April 17, 2014. Effective Date: July 24, 2014.

Amended/Approved for Publication: July 15, 2015. Effective Date: October 22, 2015. Amended/Approved: February 20, 2019.