

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 610 Department or Agency Alabama Board of Nursing

Rule No. 610-X-4-.16 Special Circumstances

Rule Title: Special Circumstances

 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

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 Peggy Sellers Benson, RN, MSHA, MSN, NE-BC

Date July 22, 2019

(DATE FILED)
(STAMP)

APA-2
11/96

ALABAMA BOARD OF NURSING

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Nursing

RULE NO. & TITLE: § 610-X-4-.16 Special Circumstances

INTENDED ACTION: The Alabama Board of Nursing proposes to amend the rules related to licensing.

SUBSTANCE OF PROPOSED ACTION: The Alabama Board of Nursing proposes to amend ABN Administrative Code § 610-X-4-.16, to strengthen accountability for discipline and VDAP. A copy of the proposed rule may be found on the Board's web site, www.abn.alabama.gov, under "laws" and then "proposed rule changes."

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or verbal comments will be accepted until Wednesday, September 4, 2019. Verbal or written comments should be directed to Peggy Benson, Executive Officer, at P.O. Box 303900, Montgomery, AL 36130-3900 or via electronic mail at Peggy.Benson@abn.alabama.gov or via telephone at 334-293-5210.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
The record closes at 4:30 P.M. on Wednesday, September 4, 2019.

CONTACT PERSON AT AGENCY: Peggy Benson, Executive Officer.

A handwritten signature in cursive script that reads "Peggy Benson". The signature is written in black ink and is positioned above a horizontal line.

Executive Officer

610-X-4-.16 Special Circumstances.

(1) In the event the Governor proclaims a state of emergency impacting any part of Alabama, Code of Ala. 1975 Section 34-21-6 applies for the first thirty (30) days. An individual licensed to practice nursing in another state may provide emergency assistance in Alabama for up to thirty (30) days subject to verification of licensure in the state where licensed. Any organization or individual who provides employment or volunteer opportunities for the licensed nurse providing nursing services is responsible to ensure the validity of the nursing license.

(2) Should an emergency continue past thirty days, a temporary permit to practice nursing in Alabama for ninety (90) days is required. An application for an emergency temporary permit is required to be submitted to the Board electronically.

(3) In the event of a state or nationally declared emergency in a jurisdiction outside Alabama, any individual licensed in the jurisdiction where the emergency occurred may apply electronically for a Disaster Temporary Permit in the manner prescribed by the Board. The Disaster Temporary Permit shall be valid for not more than ninety (90) days.

(4) Any individual licensed to practice nursing in another state is required to have an Alabama license if educational or consultative services extend beyond 30 calendar days in one year.

(a) Providing nursing care at a camp in Alabama for longer than seven (7) days within a calendar year requires a license to practice nursing in Alabama.

(b) Providing nursing care to and accompanying students from another state to Alabama for longer than seven (7) days within a calendar year requires a license to practice nursing in Alabama.

(c) Providing preparational services for an out of state organ transplant team is considered consultative services for the purposes of this rule.

(5) Telephonic or electronic services used to communicate with patients and provide direction regarding nursing and medical care require an active license to practice

nursing in Alabama.

(6) A licensed nurse who retires or ceases nursing practice for any reason and has no intention to practice in the future may apply to the Board for an inactive license with a "retired" status.

(a) The license will remain inactive unless the licensee reactivates the license.

(b) Continuing education is not required to maintain an inactive license.

(c) In order to reactivate an inactive license, the applicant shall submit an electronic application, pay the required fees, and submit 24 contact hours of continuing education earned within two years of the date of the application.

(d) A nurse currently participating in the Voluntary Disciplinary Alternative Program or holding licenses currently encumbered pursuant to discipline by the Board shall not be eligible to inactivate or retire the license.

(e) If an applicant for an inactive license is currently the subject of an investigation or a pending disciplinary proceeding with the Board, the nurse shall not be eligible to inactivate or retire the license.

(7) In the event of a national emergency duly declared by federal officials, or in the event of a natural disaster or state of emergency duly proclaimed by the Governor, a certified registered nurse practitioner or certified nurse midwife may provide emergency treatment without immediate physician collaboration to patients within the affected areas of the state, provided that the treatment is within the individual's scope of education, training, and approved protocol. The certified registered nurse practitioner or certified nurse midwife in such circumstance shall make reasonable efforts to inform the collaborating physician of the location and type of emergency services being provided and shall act in conformance with the direction of local physicians. The authority granted under this paragraph shall extend only for the duration of the declared national emergency or state emergency or natural disaster.

(8) In the event that a licensed healthcare facility activates its emergency operation plan in response to a public

health emergency, a licensed nurse or advanced practice nurse may act within such alternative standards of care delivery as are authorized by the Governor's Proclamation and alternative standards and scope of practice as are provided in the emergency operations plan, provided that any such practice is within the scope of practice, education, training, and national certification of the licensed nurse or advanced practice nurse and congruent with any limits imposed in the Code of Alabama and not addressed by the Governor's Proclamation. A certified registered nurse practitioner or certified nurse midwife may provide emergency treatment without immediate physician collaboration to patients within the affected areas of the public health emergency, provided that the treatment is within the individual's scope of education, training, and approved protocol. The certified registered nurse practitioner or certified nurse midwife in such circumstance shall make reasonable efforts to inform the collaborating physician of the location and type of emergency services being provided and shall act in conformance with the direction of local physicians. The authorization provided in this section shall be effective only for the duration of time during which the Governor's Proclamation and emergency operation plan are active.

(9) In the event that a licensed healthcare facility activates its emergency operation plan in response to a community disaster, a licensed nurse or advanced practice nurse may act within such alternative clinical models or clinical department utilization as are provided in the emergency operations plan, provided that any such practice is within the scope of practice, education, training, and national certification of the licensed nurse or advanced practice nurse and congruent with any limits imposed in the Code of Alabama. A certified registered nurse practitioner or certified nurse midwife may provide emergency treatment without immediate physician collaboration to patients within the affected areas of the community disaster, provided that the treatment is within the individual's scope of education, training, and approved protocol. The certified registered nurse practitioner or certified nurse midwife in such circumstance shall make reasonable efforts to inform the collaborating physician of the location and type of emergency services being provided and shall act in conformance with the direction of local physicians. The authorization provided in this section shall be effective only for the duration of time during which the emergency operation plan is active.

(10) Any applicant for initial licensure who possesses an active, unencumbered license in another state and who is the eligible spouse of a service member, as defined in Section

31-1-6, Code of Ala. 1975, shall:

(a) Be eligible to apply for a service member spouse temporary permit, which shall be valid for 180 days.

(b) Be exempt from payment of the initial licensure fee provided for in Section 610-X-4-.14 of these rules.

(c) The applicant is required to substantiate his or her eligibility by providing the following:

1. A marriage certificate substantiating marriage to the service member.

2. The active or reserve service member's official military orders, the transitioning service member's DD Form 214 or NGB Form 22, or the deceased service member's DD Form 214 or NGB Form 22 and death certificate.

(11) Any applicant for initial approval as a certified registered nurse anesthetist or clinical nurse specialist, or any applicant for an initial certificate of qualification as a certified registered nurse practitioner or certified nurse midwife, who is approved to practice advanced practice nursing in another state and is the eligible spouse of a service member, as defined in Section 31-1-6, Code of Ala. 1975, shall:

(a) Be eligible to apply for service member spouse temporary advanced practice approval, which shall be valid for 180 days.

(b) Be exempt from payment of the initial advanced practice approval or certificate of qualification fee provided for in Section 610-X-4-.14 of these rules.

(c) The applicant is required to substantiate his or her eligibility by providing the following:

1. A marriage certificate substantiating marriage to the service member.

2. The active or reserve service member's official military orders, the transitioning service member's DD Form 214 or NGB Form 22, or the deceased service member's DD Form 214 or NGB Form 22 and death certificate.

(12) Any nurse who holds an active valid multi-state nursing license issued under the Enhanced Nurse Licensure Compact (eNLC) administered by the eNLC Commission may apply for

a one-time temporary permit, which shall be valid for one (1) year from the date of issuance, provided that the applicant:

- (a) Has submitted a completed application and required fees.
- (b) Has never held an Alabama nursing license.
- (c) Does not possess nor is the subject of any of the grounds for denial or discipline of licensure pursuant to Code of Ala. 1975, 34-21-25 and Chapter 8 of these rules.
- (d) Has not had a license made inactive in lieu of discipline in any jurisdiction.
- (e) Is not the subject of a current investigation by the regulatory board of any health-related profession in any state, territory, or country.
- (f) Agrees that in the event the Board receives a complaint regarding the holder of the temporary permit, the Board may institute disciplinary proceedings against the temporary permit holder and may provide such information regarding the complaint and investigation as it deems necessary to the temporary permit holder's home state board of nursing.
- (g) A nurse may apply for a temporary permit under this section once per biennial license period.

Author: Alabama Board of Nursing

Statutory Authority: Code of Ala. 1975, §34-21-6.

History: New Rule: Filed November 26, 2007; effective December 31, 2007. **Amended:** Filed November 19, 2010; effective December 24, 2010. **Amended:** Filed April 22, 2016; effective June 6, 2016. **Amended:** Filed November 21, 2016; effective January 5, 2017. **Amended:** Filed January 22, 2018; effective March 8, 2018. **Amended:** Filed July 20, 2018; effective September 3, 2018. **Amended:** Filed September 27, 2018; effective November 11, 2018. **Amended:** Filed January 22, 2019; effective March 8, 2019. **Amended:** Filed March 18, 2019; effective May 2, 2019.