

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-10-12  
Rule Title: Registration of Office-Based Surgery/Procedures Physician

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

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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 Services Agency.

Signature of certifying officer *Clay J. Dorminey*  
Date: 4/20/18

APA-2

**ALABAMA STATE BOARD  
OF MEDICAL EXAMINERS**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama State Board of Medical Examiners

**RULE NO. & TITLE:** 540-X- 10-.12, Registratioion of Office-Based Surgery/Procedures Physician

**INTENDED ACTION:** To amend the rule

**SUBSTANCE OF PROPOSED ACTION:** Amend rule to remove provision concerning annual notification to licensees. The notification will be through the online renewal system. The amendment would also change the office based surgery registration deadline from March 1 to Jan. 31 of each year to match the license renewal period.

**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 Aug. 3, 2018. 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. Additionally, the intended action is available at the Board's web site, [www.albme.org](http://www.albme.org).

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** Aug. 3, 2018

**CONTACT PERSON AT AGENCY:** Carla H. Kruger

  
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Amy T. Dorniney, Board Secretary

540-X-10-.12 Registration of Office-Based Surgery/Procedures Physician.

(1) A physician who is licensed to practice medicine in Alabama, who maintains a practice location in Alabama, and who performs or offers to perform the following:

(a) Any office-based surgery/procedure which requires moderate sedation, deep sedation or general anesthesia, as defined in these rules, or

(b) Liposuction when infiltration methods such as the tumescent technique are used, or

(c) Any procedure in which propofol is administered, given or used, is hereby required to register with the State Board of Medical Examiners as an office-based surgery/procedures physician, prior to performing any office-based surgery/procedure as defined in this rule.

(2) Registration shall be accomplished on a form provided by the Board. After initially registering as an office-based surgery/procedures 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 office-based surgery/procedures physician.

(3) The form for registration of an office-based surgery/procedures physician is incorporated as Appendix D to these rules.

(4) For the purposes of these rules an "office-based surgery/procedures physician" shall mean any physician licensed to practice medicine in Alabama who performs or offers to perform in an office setting within the state of Alabama, any procedure that requires moderate sedation, deep sedation or general anesthesia, as defined in these rules, or who performs or offers to perform liposuction when infiltration

methods such as the tumescent technique are used, or who performs or offers to perform any procedure in which propofol is administered, given, or used.

(5) In January 2012, the Board of Medical Examiners shall cause a notice to be mailed to every physician who is licensed in the State of Alabama notifying them of the requirements contained in this Chapter.

(6) Beginning January 2012, annual registration as an office-based surgery/procedures physician shall be required, and registration shall be by electronic means.

~~(7) Beginning February 2013, and in February of each subsequent year, annual registration notification will be generated pursuant to an affirmative answer on the annual medical license renewal application regarding the practice of office-based surgery.~~

(87) Annual registration as an office-based surgery/procedures physician shall be due by ~~March 1~~ January 31 of each year.

**Authors:** Alabama Board of Medical Examiners *ad hoc* Committee: Arthur F. Toole, III, M.D.; Jorge A. Alsip, M.D.; James G. Chambers, III, M.D.; Craig H. Christopher, M.D.; Alcus Ray Hudson, M.D.; Pamela D. Varner, M.D.; James E. West, M.D.; and Task Force Sub-Committee: Jeff Plagenhoef, M.D.; Eric Crum, M.D.; Dan J. Coyle, Jr., M.D.; Gary Monheit, M.D.; Robert Hurlbutt, IV, M.D.; C. Paul Perry, M.D.; W. Guinn Paulk, M.D.; Mark McIlwain, D.M.D., M.D.; Jerald Clanton, D.M.D., M.D.; Patrick J. Budny, M.D.; James W. Northington, M.D.; David Franco, M.D.; Thomas E. Moody, M.D.

**Statutory Authority:** Code of Alabama §§ 34-24-53, 34-24-53.1

**History:** Approved/Adopted: Approved for Publication January 15, 2003. Published in 1/31/03 *Alabama Administrative Monthly*. Amended/Approved for Publication: May 21, 2003. Published in 5/30/03 *Alabama Administrative Monthly*. Amended/Approved for Publication: August 20, 2003. Published in 8/29/03 *Alabama Administrative Monthly*. Approved/Adopted: October 15, 2003. Effective Date: November 21, 2003. Amended/Approved: July 20, 2011. Approved/Adopted: September 21, 2011. Effective Date: October 25, 2011. Amended/Approved: June 20, 2018.