

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 545 Department or Agency: Alabama Medical Licensure Commission
Rule No. 545-X-6
Rule Title: The Practice of Medicine or Osteopathy Across State Lines
 New X 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.

James A. Wallbrun, MD

Signature of certifying officer _____
Date August 29, 2018

APA-2

ALABAMA MEDICAL LICENSURE COMMISSION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Medical Licensure Commission

RULE NO. & TITLE: 545-X-6 The Practice of Medicine or Osteopathy Across State Lines

INTENDED ACTION: To amend multiple rules in Chapter six as part of a five year review required by Section 41-22-5.2

SUBSTANCE OF PROPOSED ACTION: Remove outdated rule language, renumbering as necessary and adding new language to reflect current procedures and terminology.

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: Karen H. Silas, Executive Assistant, Alabama Medical Licensure Commission, Post Office Box 887, Montgomery, Alabama 36101-0887, by mail, email or in person between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, until and including **Friday, November 2, 2018**. Persons wishing to obtain copies of the text of this rule and submit data, views or comments or arguments orally should contact Karen H. Silas, by telephone (334/242-4153) or email at ksilas@almlc.org during said period in order to set up an appointment for a hearing respecting such oral data, views, or arguments.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: **November 2, 2018**

CONTACT PERSON AT AGENCY: Karen H. Silas

James H. Walburn, M.D.

James H. Walburn, M.D., Chairman

Alabama Medical Licensure Commission

MEDICAL LICENSURE COMMISSION OF ALABAMA
ADMINISTRATIVE CODE
CHAPTER 545-X-6
THE PRACTICE OF MEDICINE ~~OR OSTEOPATHY~~
ACROSS STATE LINES
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~~545-X-6-.01~~ 545-X-6-.01 Initial License. The following definitions shall apply to these rules.

(1) Practice of Medicine ~~or Osteopathy~~ Across State Lines. The practice of medicine ~~or osteopathy~~ across state lines means the practice of medicine ~~or osteopathy~~ as defined in the Code of Ala. 1975, §34-24-50(1), as it applies to:

(a) The rendering of a written or otherwise documented medical opinion concerning the diagnosis of treatment of a patient located within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his or her agent; or

~~(a)~~

(b) The rendering of treatment to a patient located within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from this state to such physician or his or her agent.

~~(b)~~

~~(c)~~ This definition is not intended to include an informal consultation between a licensed physician located in this state and a physician located outside this state provided that the consultation is conducted without compensation to or the expectation of compensation to either physician and does not result in the formal rendering of a written or otherwise documented medical opinion concerning the diagnosis

~~(c) documented medical opinion concerning the diagnosis or treatment of a patient by the physician located outside this state.~~

(2) Exemptions. Exemptions to the practice of medicine ~~or osteopathy~~ across state lines are defined as follows:

(a) A physician who engages in the practice of medicine across state lines in a medical emergency, as defined in these rules, is not subject to the provisions of 97-166 Alabama Acts;

~~(a)~~

(b) A physician who engages in the practice of medicine ~~or osteopathy~~ across state lines on an irregular or infrequent basis, as defined in these rules, is not subject to the provisions of 97-166 Alabama Acts.

~~(b)~~

(3) Medical Emergency. A medical emergency is a condition or circumstance that, in the best clinical judgment of the attending physician on the facts before him or her, so compromises the health, safety or well-being of the patient as to require immediate treatment.

(4) Irregular or Infrequent. The irregular or infrequent practice of medicine across state lines is deemed to occur if such practice occurs less than ten (10) times in a calendar year or involves fewer than ten (10) patients in a calendar year or comprises less than one percent (1%) of the physician's diagnostic or therapeutic practice.

(5) Board. Board means the State Board of Medical Examiners created under Code of Ala. 1975, §34-24-53.

(6) Commission. Commission means the Medical Licensure Commission created under Code of Ala. 1975, §34-24-310.

(7) Special Purpose License. A special purpose license is a license issued by the Commission to practice medicine ~~or osteopathy~~ across state lines which:

(a) Is only issued to an applicant whose principal practice location and license to practice is located in a state or territory of the United States whose laws permit or allow issuance of a special purpose license to practice medicine ~~or osteopathy~~ across state lines or a similar license to a physician whose principal practice location and license is located in the State of Alabama;

~~(a)~~

(b) Limits the licensee solely to the practice of

medicine ~~or osteopathy~~ across state lines as defined in these rules.

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama, Wallace D. Mills

Statutory Authority: Act. 97-166.

History: New Rule: Filed September 26, 1997; effective October 31, 1997. **Amended:** Filed ; effective

~~5-4-5--X-6---.0-2~~ Initial Special Purpose License.

(-1-) Upon the filing of a certificate of qualification to practice medicine ~~or osteopathy~~ across state lines, issued by the Board of Medical Examiners, along with a properly completed application form, the Commission, after being satisfied that all requirements of the law have been met and that the applicant should be approved for special purpose licensure, shall issue the special purpose license to practice medicine ~~or osteopathy~~ across state lines upon the payment of a \$75.00 fee.

(2) The special purpose license shall be dated and numbered in the order of issuance and shall be signed by the Chairman.

~~(2)~~

(3) In the event the Commission determines the application of an individual for a special purpose license should be denied, the Commission shall promptly notify the applicant of its action, and such notice shall contain the reasons for the denial of the application.

~~(3)~~

(4) Where an application is denied, the license fee shall not be refunded.

~~(4)~~

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama, Wallace D. Mills

Statutory Authority: Act. 97-166.

History: New Rule: Filed September 26, 1997; effective October 31, 1997. **Amended:** Filed February 25, 2005; effective April 1, 2005.

~~5-4-5--X-6---.0-3~~ Initial Special Purpose License Application.

(-1-) An example of the initial application for a special purpose license is contained in Appendix A to Chapter 545-X-6.

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama

Statutory Authority: Act. 97-166.

Chapter 545-X-6

Medical Licensure

History: New Rule: Filed September 26, 1997; effective October 31, 1997. **Amended:** Filed February 25, 2005; effective April 1, 2005.

5-4-5--X-6--0-4 Expiration And Renewal Of Special Purpose License.

(-1-) Each special purpose license issued pursuant to the provisions of this chapter shall expire on December 31 in the third calendar year after its issuance.

(2) Thereafter, each special purpose license issued pursuant to the provisions of this chapter may be renewed annually by filing with the Commission, prior to the expiration of such special purpose license, a properly completed renewal application form and payment of a renewal fee in the amount of \$300.00.

(2)

(3) Failure to renew a special purpose license prior to its expiration shall result in the ~~automatic revocation of such special purpose licenses~~ special purpose license becoming inactive.

(3)

(4) An applicant may re-apply for a special purpose license following ~~automatic revocation~~ its becoming inactive for failure to renew by following the procedures set forth for the issuance of an initial special purpose license.

(4)

(5) An example of the application for renewal of a special purpose license is contained in Appendix B to Chapter 6 of these rules.

(5)

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama

Statutory Authority: Act. 97-166.

History: New Rule: Filed September 26, 1997; effective October 31, 1997. **Amended:** Filed February 25, 2005; effective April 1, 2005. **Amended:** Filed July 26, 2007; effective

August 30, 2007. **Amended:** Filed ;effective

5-4-5--X-6--0-5 Effect Of Special Purpose License.

(-1-) The issuance by the Commission of a special purpose license to practice medicine ~~or osteopathy~~ across state lines subjects the licensee to the jurisdiction of the Board and the Commission in all matters set forth in Sections 34-24-50 to 34-24-83, inclusive, Code of Ala. 1975, and Sections 34-24-310 to 34-24-406, inclusive, Code of Ala. 1975, and the implementing rules and regulations of the Commission and the

Chapter 545-X-6

Medical Licensure

Board, including all matters related to discipline. §

~~all matters related to discipline.~~ It shall be the affirmative duty of every licensee to report to the Board of Medical Examiners in writing within 15 days of the initiation of any disciplinary action against the license to practice medicine ~~or osteopathy~~ of the licensee by any state or territory in which the licensee is licensed. By accepting a special purpose license the licensee agrees to produce patient medical records of materials as requested by the Commission or to appear before the Commission or any of its committees following receipt of a written notice issued by the Commission. Such notice may be issued by the Commission pursuant to the authority granted under Sections 34-24-310 to 34-24-406, inclusive, Code of Ala. 1975.

(-2-) The Commission is hereby authorized to temporarily suspend a special purpose license to practice medicine ~~or osteopathy~~ across state lines without a hearing on either of the following grounds:

(a) The failure of the licensee to appear or produce records or materials as requested by the Board of the Commission; or

~~(a)~~

(b) The initiation of a disciplinary action against the licensee by any state or territorial licensing jurisdiction in which the licensee holds a license to practice medicine ~~or osteopathy.~~

~~(b)~~

(3) Notwithstanding any other provision of law, including the Alabama Administrative Procedure Act, to the contrary, the temporary suspension provided herein shall remain in effect until either the licensee has complied with the request of the Board or Commission or the disciplinary action pending against the licensee has been terminated in favor of the licensee and the temporary suspension is terminated by a written order of the Commission.

~~(3)~~

(4) In addition to the foregoing, a special purpose license to practice medicine ~~or osteopathy~~ across state lines is subject to each of the grounds for disciplinary action as provided in Section 34-24-360, Code of Ala. 1975, in accordance with procedures set out in Section 34-24-361, Code of Ala. 1975, and the Alabama Administrative Procedure Act.

~~(4)~~

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama, Wallace D. Mills

Statutory Authority: Act. 97-166.

History: New Rule: Filed September 26, 1997; effective October 31, 1997.

545-X-6-.06 Sanctions.

(-1-) Any person who violates the provisions of this act is subject to criminal prosecution for the unlicensed practice of medicine ~~or osteopathy~~ under the provisions of Section 34-24-51, Code of Ala. 1975, or injunctive or other action authorized in this state to prohibit or penalize continued practice without a license under the provisions of Section 34-24-52, Code of Ala. 1975.

(2) Nothing in this act shall be interpreted to limit or restrict the Commission's authority to discipline any physician licensed to practice in this state who violates the provisions in Section 34-24-310 to 34-24-406, inclusive, Code of Ala. 1975, while engaging in the practice of medicine within this or any other state.

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama, Wallace D. Mills

Statutory Authority: Act. 97-166.

History: New Rule: Filed September 26, 1997; effective October 31, 1997. **Amended:** Filed ;effective

5-4-5--X-6--.-0-7 Reciprocity. The Commission shall only issue a special purpose license to practice medicine ~~or osteopathy~~ across state lines to an applicant whose principal practice location and license to practice is located in a state or territory of the United States whose laws permit or allow for the issuance of a special purpose license to practice medicine ~~or osteopathy~~ across state lines or similar license to a physician whose principal practice location and license is locate in this state.

Author: Wayne P. Turner, Attorney for the Medical Licensure Commission of Alabama, Wallace D. Mills

Statutory Authority: Act. 97-166.

History: New Rule: Filed September 26, 1997; effective October 31, 1997.