

APA-3
Revised 1/2018

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, § 41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on the 20th day of July, 2023, and filed with the agency secretary on the 20th day of July, 2023.

AGENCY NAME: Alabama State Board of Medical Examiners

_____ Amendment X New _____ Repeal (Mark appropriate space)

Rule No. 540-X-1-.19

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Public Records Requests

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

No comments received. No changes from proposal.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLI, ISSUE NO. 8, AAM,
DATED MAY 31, 2023.

Statutory Rulemaking Authority: Ala. Code §§ 34-24-53

(Date Filed)

(For LRS Use Only)

REC'D & FILED

JUL 20 2023



Certifying Officer / Deputy

LEGISLATIVE SVC AGENCY

NOTE: In accordance with §41 22 6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.

540-X-1-.19 Public Records Requests.

(1) Types of records requests.

(a) Standard request. A public records request that seeks one or more specifically and discretely identified public records that the Board determines would take less than eight hours of staff time to process considering the time needed to identify and retrieve any responsive records and to redact or take other measures to withhold legally protected information. A standard request should require no or minimal clarification by the requester.

(b) Time-intensive request. A public records request that the Board determines would take more than eight hours of staff time to process considering the time needed to identify and retrieve any responsive records -- including because the request is vague or overly broad -- and anytime needed to redact or take other measures to withhold legally protected information.

(2) Procedure for standard requests.

(a) The requester shall submit a request for public records form via email.

(b) The Board may require the payment of a reasonable fee before providing a substantive response. If the Board elects to charge a fee, it will notify the requester and withhold the record until receipt of payment. The requester may opt not to pay the fee and thus not receive any substantive response.

(c) The Board shall acknowledge the request within two business days of receiving it and shall be prepared to provide a substantive response fulfilling or denying the request within 15 business days of acknowledging receipt.

(d) The Board may extend this period in 15 business day increments upon written notice to the requester but will process a standard request as expeditiously as possible.

(3) Procedure for time-intensive requests.

(a) The requester shall submit a request for public records form via email.

(b) The Board shall require the payment of a reasonable fee before providing a substantive response to the requester.

(c) The Board shall notify the requester in advance of any fees and shall withhold any substantive response until receipt of payment.

(d) The Board shall acknowledge the request within two business days of receiving it and shall notify the requester within 15 days after the acknowledgment that the request qualifies as a time-intensive request. At that time, the agency shall notify the requester of any likely fees and allow the requester to withdraw the time-intensive request and submit a new request that is not a time-intensive request.

(e) If the requester elects to proceed with the time-intensive request, the Board shall be prepared to provide a substantive response fulfilling or denying the request within 45 business days after the requester elected to proceed with the time-intensive request.

(f) The Board may extend this 45-business day period in 45-business day increments by notifying the requester in writing.

(4) Fees.

(a) The Board may charge the requester up to \$20.00 per hour, including a standard, minimum fee of \$20.00, for time spent locating, retrieving, and preparing

records for production, not including legal review or redaction necessary to withhold legally protected information.

(b) The Board may charge a per-page fee of up to \$.50 per copy produced on standard 8.5x11 paper. The Board will not charge a per-page fee for documents provided electronically.

(c) Additionally, the Board may charge any actual costs incurred while processing or responding to public records requests (e.g., for a flash drive, special paper sizes, and costs associated with searching electronic databases). The requester will be informed of the cost of any actual costs in advance of being charged.

(5) The following documents are not public and may not be produced under Alabama law. This list is not meant to be exhaustive, and other non-public Board documents may not be listed here.

(a) Reports of investigations.

(b) Documents subpoenaed by the Board.

(c) Reports of any investigative committee appointed by the Board.

(d) Memoranda of the Board's counsel relating to investigations.

(e) Statements of persons interviewed by the Board or any committee of the Board.

(f) All information, interviews, reports, statements, or memoranda of any kind furnished to the Board or any committee of the Board.

(g) Any findings, conclusions, or recommendations resulting from proceedings of the Board or any committee of the Board, unless presented as evidence at a public hearing.

(h) Witness testimony, exhibits, and pleadings (except for the Administrative Complaint and Commission findings/orders) in contested case hearings held before the Medical Licensure Commission.

(i) Personal information that would expose individuals to the risk of identity theft or other unlawful acts. Examples include social security numbers, dates of birth, driver's license numbers, home addresses, personal telephone numbers, personal e-mail addresses, information pertaining to minors, financial account numbers, and any other information as to which the public informational value is outweighed by the individual privacy interests involved.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama, 1975 § 34-24-53

History: New Rule Filed July 20, 2023. Effective Date: September 14, 2023.