

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 18th day of August, 2022, and filed with the agency secretary on the 18th day of August, 2022.

AGENCY NAME: Alabama State Board of Medical Examiners

 X Amendment New Repeal (Mark appropriate space)

Rule No. 540-X-12-.02(1) and (6)

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

Rule Title: General Requirements

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

Adopted with a no-substantive change from the proposal for clarification in paragraph (1). No comments received.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XL, ISSUE NO. 9 AAM,
DATED JUNE 30, 2022.


Statutory Rulemaking Authority: Ala. Code §§ 34-24-53; 20-2-60 et. seq.

(Date Filed)
(For LRS Use Only)

REC'D & FILED

AUG 19 2022

LEGISLATIVE SVC AGENCY


Certifying Officer or his or her
Deputy

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-12-.02 General Requirements.

(1) The Board is the certifying board which may issue, ~~to and~~ renew, deny, restrict, limit, suspend, or revoke at the QACSC of an assistant to physician.

(2) Beginning the calendar year 2010, QACSCs may be issued by the Board to Physician Assistants (P.A.s).

(3) Although the Board recognizes two categories of assistants to physicians, only a person licensed and registered by the Board as a Physician Assistant (P.A.) may be issued a QACSC.

(4) A P.A. who prescribes, administers authorizes for administration or dispenses any controlled substance within Alabama or who proposes to engage in the prescribing, administering, authorizing for administration or dispensing of any controlled substance within Alabama shall obtain, annually, a QACSC for each registration of the P.A. by the Board to perform medical services under the supervision of a physician.

(5) A P.A. who prescribes, administers, authorizes for administration or dispenses, or who proposes to engage in the prescribing, administering, authorizing for administration or dispensing of any controlled substance within Alabama shall obtain the appropriate registration or registrations issued by the United States Drug Enforcement Administration.

(6) The Board of Medical Examiners may decline to consider an application when the P. A. or the supervising physician is under investigation for a potential violation of the Code of Alabama, Sections 20-2-50, et. seq., or 34-24-50, et. seq., or *any rule of the Alabama Board of Medical Examiners or Medical Licensure Commission of Alabama.*

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama § 20-2-60, *et. seq.*, Act 2009-489

History: Approved for publication: November 18, 2009. Effective Date: March 24, 2010. Approved for publication June 16, 2022. Effective Date: October 15, 2022.

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AGENCY NAME: Alabama State Board of Medical Examiners

 X Amendment New Repeal (Mark appropriate space)

Rule No. 540-X-12-.06(2), (3), (4) and (5)
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Fees - Qualified Alabama Controlled Substances Registration Certificate (QACSC)

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

Adopted without changes from the proposal. No comments received.

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Statutory Rulemaking Authority: Ala. Code §§ 34-24-53; 20-2-60 et. seq.

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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-12-.06 Fees - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

(1) An applicant for a QACSC shall submit to the Board an application fee in the amount of One Hundred and Ten Dollars (\$110.00), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217.

(2) An applicant for annual renewal of a QACSC submitted on or before December 31 shall submit to the Board a QACSC renewal fee in the amount of Sixty Dollars (\$60.00), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217.

(3) An applicant for annual renewal of a QACSC submitted after the renewal deadline of December 31 and prior to January 31 shall submit to the Board a QACSC renewal fee in the amount of Sixty Dollars (\$60.00), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217, and a late fee in the amount of Seventy-Five Dollars (\$75.00).

(4) An applicant for annual renewal of a QACSC submitted after January 31 shall submit to the Board a QACSC renewal fee in the amount of Sixty Dollars (\$60.00), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217, and a penalty fee in the amount of One Hundred Ten Dollars (\$110.00).

(5) *An applicant for annual renewal of a QACSC submitted after January 31 who has also prescribed controlled substances between January 1 and the date of*

application shall submit to the Board a QACSC renewal fee in the amount of Sixty Dollars (\$60.00), which includes the fee payable to the Alabama Department of Public Health Prescription Drug Monitoring Data Bank required by Ala. Code § 20-2-217, and a penalty fee in the amount of One Hundred Fifty Dollars (\$150.00).

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama § 20-2-60, *et. seq.*, Act 2009-489

History: Approved for publication: November 18, 2009. Effective Date: March 24, 2010. Approved for publication: June 16, 2022.

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AGENCY NAME: Alabama State Board of Medical Examiners

 X Amendment New Repeal (Mark appropriate space)

Rule No. 540-X-12-.08(9)

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

Rule Title: Grounds for Denial and Discipline – Qualified Alabama Controlled Substances Registration Certificate (QASC)

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

Adopted without changes from the proposal. No comments received.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XL, ISSUE NO. 9 AAM, DATED JUNE 30, 2022.

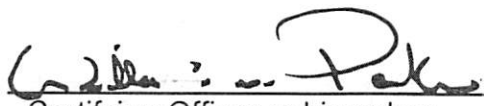
Statutory Rulemaking Authority: Ala. Code §§ 34-24-53; 20-2-60 et. seq.

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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-12-.08 Grounds for Denial and Discipline - Qualified Alabama Controlled Substances Registration Certificate (QACSC).

The Board may deny a P.A.'s application for a QACSC, deny a P.A.'s application for renewal or reinstatement of a QACSC, or initiate disciplinary action against a P.A. possessing a QACSC based on the following grounds:

- (1) Fraud or deceit in applying for, procuring, or attempting to procure a QACSC in the state of Alabama.
- (2) Conviction of a crime under any state or federal law relating to any controlled substance.
- (3) Conviction of a crime or offense which affects the ability of the P.A. to practice with due regard for the health or safety of his or her patients.
- (4) Prescribing a drug or utilizing a QACSC in such a manner as to endanger the health of any person or patient of the P.A. or supervising physician.
- (5) Suspension or revocation of a registration number issued to the P.A. by the United States Drug Enforcement Administration.
- (6) Excessive dispensing or prescribing of a controlled substance to any person or patient of the P.A. or supervising physician.
- (7) Unfitness or incompetence due to the use of or dependence on alcohol, chemicals, or any mood-altering drug to such an extent as to render the P.A. unsafe or unreliable to prescribe drugs or to hold a QACSC.
- (8) Any violation of a requirement set forth in Ala. Code §§ 20-2-60 through 20-2-69; a rule of the Board; a protocol or medical regimen adopted by the Board; or a limitation established by the supervising physician in an approved formulary.

(9) Prescribing a controlled substance without a valid QACSC.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama § 20-2-60, *et. seq.*, Act 2009-489

History: Approved for publication: November 18, 2009. Effective Date: March 24, 2010. Approved for publication June 16, 2022. Effective Date: October 15, 2022.

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AGENCY NAME: Alabama State Board of Medical Examiners

 X Amendment New Repeal (Mark appropriate space)

Rule No. 540-X-12-.09(1)

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

Rule Title: Due Process Proceedings, Denial and Discipline - Qualified Alabama Controlled Substances Registration Certificate (QACSC)

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

Adopted without changes from the proposal. No comments received.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XL, ISSUE NO. AAM,
DATED JUNE 30, 2022.

Statutory Rulemaking Authority: Ala. Code §§ 34-24-53; 20-2-60 et. seq.

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540-X-12-.09 Due Process Proceedings, Denial and Discipline - Qualified
Alabama Controlled Substances Registration Certificate (QACSC).

(1) Before denying an application for a QACSC, denying an application for renewal or reinstatement of a QACSC or disciplining a P.A. possessing a QACSC, the Board shall serve upon the P.A. an order to show cause why registration should not be denied or disciplined.

(2) Any hearing concerning the order to show cause shall be before the Board.

(3) The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Board at a time and place not less than thirty (30) days after the date of service of the order, but in the case of denial of renewal of registration, the show cause order shall be served not later than thirty (30) days before the expiration of the registration.

(4) Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(5) The Board may restrict, suspend or revoke a QACSC or assess an administrative fine against a QACSC whenever a P.A. shall be found guilty on the basis *of substantial evidence of any of the acts or offenses enumerated in Rule 540-X-12-.08.*

(6) The Board may limit revocation or suspension of a QACSC to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(7) The Board shall promptly notify the Drug Enforcement Administration of the United States Department of Justice of all orders suspending or revoking a QACSC.

(8) Any hearing before the Board shall be considered a contested case under the Alabama Administrative Procedure Act, Section 41-22-1, and shall be conducted in accordance with the requirements of that Act.

(9) In a hearing on the request for reinstatement of a QACSC, the Board has the authority to reinstate or deny reinstatement of a QACSC. In a hearing on a request for reinstatement of a QACSC, the applicant shall have the burden of establishing to the reasonable satisfaction of the Board that the applicant is entitled to the specific relief requested.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama § 20-2-60, *et. seq.*, Act 2009-489

History: Approved for publication: November 18, 2009. Effective Date: March 24, 2010. Approved for publication June 16, 2022. Effective Date: October 15, 2022.