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 22nd day of September, 2021, and filed with the agency secretary on the 1st day of October, 2021.

AGENCY NAME: Medical Licensure Commission of Alabama

X Amendment _____ New _____ Repeal (Mark appropriate space)

Rule No. _545-X-3-.05
(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

Rule Title: Witnesses/How Subpoenaed and Sworn; Failure to Comply

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

Adopted without changes.

NOTICE OF INTENDED ACTION PUBLISHED IN
VOLUME XXXIX __________,
ISSUE NO. 10 __________, AAM, DATED July 30, 2021.

Statutory Rulemaking Authority: Ala. Code § 34-24-311

(Date Filed)
(For LSA Use Only)

George C. Smith, Sr., M.D., Chairman
Medical Licensure Commission of Alabama

OCT 13 2021

LEGISLATIVE SVC AGENCY
(1) To any such hearing, witnesses may be subpoenaed by the Commission on its own motion, or on the demand of either party by subpoena signed by the chairman of the Commission, by a hearing officer appointed by the Commission to preside over a contested case, or by the executive officer of the Commission, and such subpoenas may be served by any sheriff of Alabama, by a hearing officer appointed by the Commission to preside over a contested case, by the executive officer of the Commission or by any person designated by the hearing officer or Executive Officer. If served by anyone other than a sheriff, the return of service shall be sworn to by said person before some officer authorized to administer oaths. Witnesses may be sworn by or at the direction of the chairman, the hearing officer, or by the person discharging the duties of such chairman. Similar subpoenaas may be issued directing the production of books, papers, or documents at said hearing.

(2) The Commission, by order of its chairman, hearing officer, or executive director, may require any person to produce within this state, at such reasonable time and place as it may designate, any books, documents, records, or papers kept in any office or place without or within this state, or certified copies thereof, whenever the production thereof is reasonably required and pertinent to any matter under investigation before the Commission, in order that an examination thereof may be made by the Commission, or by any person employed by the Commission.

(3) In case of failure or refusal on the part of any person to comply with any subpoena, or on the refusal of any witness to testify or answer as to any matter regarding which he may lawfully be interrogated, any circuit court in that state, or any judge thereof, on application of the Commission or its executive director may issue an attachment for such person and compel him to comply with such order, or to attend before the Commission and produce such documents and give his testimony upon such matters as he may be lawfully required, and the court or judge shall have the power to punish for contempt as in cases of disobedience of a like order or subpoena issued by or from such court, or a refusal to testify therein.

(4) The expense of the subpoena including mileage and per diem as specified by law shall be borne by the party requesting
the subpoena. The Commission may prescribe reasonable time
limitations for the filing of requests for the subpoena of
witnesses and documents and may further require payment of the
expenses for such subpoenas in advance.

(5) Upon the filing of a timely motion by any party, the
Commission, through its Chairman, hearing officer, or Executive
Officer may direct the issuance of a subpoena to require the
attendance of a witness at a deposition upon oral examination or
to produce documents for inspection provided that the witness
resides within the jurisdiction of the Commission to issue such
subpoena and further provided the party requesting the subpoena
tender to the Commission the required mileage and per diem rate.
The party at whose request the deposition is held shall be
responsible for all administrative costs of the deposition.

(6) This section governing the issuance of subpoenas and
production of documents shall not be interpreted to require that
any members of the Medical Licensure Commission, or the Board of
Medical Examiners, or any investigator, attorney or employee of
the Medical Licensure Commission or of the Board of Medical
Examiners submit to a deposition upon oral examination or
produce documents for inspection unless the individual is
designated by the complainant to testify as a witness in the
contested case. In all circumstances the deliberations of the
Medical Licensure Commission, the contents of any investigative
files and records of the Board of Medical Examiners, including
any investigative reports, statements, summaries or other
materials compiled and accumulated by investigators, attorneys
or staff of the Board of Medical Examiners pursuant to its
ordinary and usual investigative function are confidential and
privileged and are not subject to discovery proceedings under
these rules.

Author:
Statutory Authority: Code of Ala. 1975, §§34-24-361, 34-24-363,
34-24-364.
History: Filed May 6, 1983. Repealed and new rule adopted in lieu
thereof: Filed May 1, 1984. Amended: Filed May 5, 2010; effective
June 9, 2010. Amended: Filed October 13, 2021; Effective: December
13, 2021.