

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

 X Amendment New Repeal (Mark appropriate space)

Rule No. 540-X-9-.11(2)

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

Rule Title: Contact with Patients before Prescribing

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

Comments received. No changes from proposal. See attached Statement Pursuant to Ala. Code § 41-22-5(a)(2).

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 or his or her 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.

**STATEMENT OF THE ALABAMA STATE BOARD OF MEDICAL EXAMINERS
PURSUANT TO §41-22-5(a)(2), CODE OF ALABAMA 1975, UPON ADOPTION
OF ALA. ADMIN. CODE R. 540-X-9-.11, CONTACT WITH PATIENTS BEFORE
PRESCRIBING**

July 20, 2023

The proposed amended Board of Medical Examiners Administrative Rule 540-X-9-.11, was published for comment on May 31, 2023. The comment period ended at the close of business on July 5, 2023. After consideration of comments received, the rule was approved for final adoption.

The Board received conflicting views urging against adoption or urging for changes. Regarding those comments, the Board states the following:

A comment was received urging against the final adoption of the amendment due to concerns about physician liability, personal responsibility, and the possibility of harm to the patient's partner(s) due to receiving medication without being seen by a physician.

The Board states that Expedited Partner Therapy (EPT) is a useful option to facilitate partner management, prevent reinfection, and curtail further transmission of sexually transmitted diseases. EPT is an additional strategy for partner management that does not replace other strategies, such as provider-assisted referral, when available.

Regarding the commenter's concerns about physician liability, the Board states that physicians should always consult with an attorney and/or their malpractice insurance carrier when in doubt about any liability issue.

Regarding the commenter's concerns about possible harm to the partner(s) due to receiving a prescription without having been seen by a physician, the Board states as follows:

A decision by a physician to utilize EPT should be made on a patient-by-patient basis, with consideration given to the availability and likely effectiveness of other strategies, the risks and benefits to the patient and their partner(s), and the public health.

No changes were made to the proposal based on this comment.

540-X-9-.11 Contact with Patients before Prescribing.

(1) It is the position of the Board that prescribing drugs to an individual the prescriber has not personally examined is usually inappropriate. Before prescribing a drug, a physician should make an informed medical judgment based on the circumstances of the situation and on his or her training and experience. Ordinarily, this will require that the physician personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan, a part of which might be a prescription. This process must be documented appropriately.

(2) Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include, but not be limited to, admission orders for a patient newly admitted to a health care facility, prescribing for a patient of another physician for whom the prescriber is taking call, continuing medication on a short-term basis for a new patient prior to the patient's first appointment, or prescribing for the sexual partner(s) of a patient in accordance with an Expedited Partner Therapy (EPT) and/or Patient Delivered Partner Therapy (PDPT) protocol for the prevention of transmission and spread of sexually transmitted diseases. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

(3) It is the position of the Board that prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.

Author: Alabama Board of Medical Examiners

Statutory Authority: Code of Alabama § 34-24-53.

History: Approved for Publication January 19, 2000. Approved/Adopted: March 15, 2000. Effective Date: April 21, 2000. Certified Rule Filed July 20, 2023.

Effective Date: September 14, 2023.