

APA-1
Revised 4/2018

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 540 Department or Agency Alabama State Board of Medical Examiners
Rule No. 540-X-1-.19
Rule Title: Public Records Requests

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

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.

Signature of certifying officer [Signature] **REC'D & FILED**
MAY 15 2023

Date: 5-15-2023
LEGISLATIVE SVC AGENCY

APA-2

ALABAMA STATE BOARD OF MEDICAL EXAMINERS

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Medical Examiners

RULE NO. & TITLE: 540-X-1-.19, Public Records Requests

INTENDED ACTION: New rule

SUBSTANCE OF PROPOSED ACTION: Adopt a new rule pursuant to Executive Order No. 734, Promoting Transparency in State Government through Enhanced Accessibility to Public Health Records.

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: Carla Kruger, Office of the General Counsel, Alabama State Board of Medical Examiners, Post Office Box 946, Montgomery, Alabama 36101-0946, by mail or email (bme@albme.gov), until and including July 5, 2023. Persons wishing to submit data, views, or comments in person should contact Carla Kruger by telephone (334-242-4116) during the comment period. Copies of proposed rules may be obtained at the Board's website, www.albme.gov.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: July 5, 2023

CONTACT PERSON AT AGENCY: Carla Kruger



(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

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 . Effective Date: .