

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-9-11
Rule Title: Contact with Patients before Prescribing

 New X 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 William R. Polk **RECORDED & 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-9-.11, Contact with Patients Before Prescribing

INTENDED ACTION: To amend the rule

SUBSTANCE OF PROPOSED ACTION: Amend rule to affirmatively exempt prescribing for the sexual partner(s) of a patient diagnosed with a sexually transmitted disease in accordance with an Expedited Partner Therapy (ET) and/or Patient Delivered Partner Therapy (PDPT) protocol.

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-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, ~~or~~ 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.