**APA-4**
**Revised 1/2018**

**CERTIFICATION OF EMERGENCY RULES**
**FILED WITH LEGISLATIVE SERVICES AGENCY**
**OTHNI LATHRAM, DIRECTOR**

Pursuant to Code of Alabama 1975, §§41-22-5(b) and 41-22-6(c)(2)a. and b.

I certify that the attached emergency new rule is a correct copy as promulgated and adopted on the 15th day of July, 2020.

AGENCY NAME: Alabama State Board of Medical Examiners

RULE NO. AND TITLE: 540-X-3-.25ER, Applicants for Emergency Certificate of Qualification by Endorsement

EFFECTIVE DATE OF RULE: July 20, 2020

EXPIRATION DATE (If less than 120 days):

NATURE OF EMERGENCY: See attached Statement of Reasons for Issuing Emergency Rules Pursuant to Ala. Code § 41-22-5(b)(1)

STATUTORY AUTHORITY: Code of Alabama 1975, § 34-24-337

SUBJECT OF RULE TO BE ADOPTED ON PERMANENT BASIS ____ YES __X__ NO

NAME, ADDRESS, AND TELEPHONE NUMBER OF PERSON TO CONTACT FOR COPY OF RULE:

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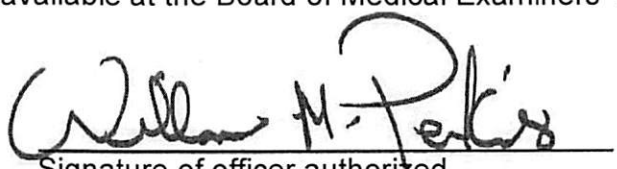
Text of rule and application forms are available at the Board of Medical Examiners' web site, www.albme.org.



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

REC'D & FILED

JUL 20 2020

LEGISLATIVE SVC AGENCY

# ALABAMA STATE BOARD OF MEDICAL EXAMINERS

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## Statement of Reasons for Issuing Emergency Rules Pursuant to Ala. Code § 41-22-5(b)(1)

On March 13, 2020, the Governor of the State of Alabama declared the existence of a state public health emergency based on the appearance of the Severe Adult Respiratory Syndrome-Coronavirus-2 (SARS-CoV-2) and the disease known as COVID-19. On March 18, 2020, the Governor proclaimed the existence of conditions that warrant the implementation of extraordinary measures and relief during the existing state health emergency to guard public health and protect human life. The Governor extended the state of emergency on May 8, 2020, and again on July 2, 2020. The state of emergency is currently set to expire on September 9, 2020.

Notably, the Governor's Thirteenth Supplemental State of Emergency Proclamation found that the "continuing impact of COVID-19" has created "conditions of disaster or extreme peril to the safety of persons and property" that justifies the extension of the state of emergency. The Governor further stated that "it is impossible to predict how long the COVID-19 pandemic will require the existence of a state of emergency." The State Board of Medical Examiners agrees with this finding and assessment of the pandemic. Further, the State Board of Medical Examiners finds that the disruption to Alabama's healthcare system by COVID-19 is unprecedented and unforeseeable; accordingly, the State Board of Medical Examiners finds that the need to reissue these emergency rules was not foreseeable when they were originally issued in March 2020.

The State Board of Medical Examiners hereby finds that the continued need for qualified physicians, physician assistants, and anesthesiologist assistants to provide medical services in Alabama warrants the emergency adoption of these rules to provide for the issuance of emergency certificates of qualification to physicians licensed in other states and emergency licenses to physician and anesthesiologist assistants licensed in other states who may assist with this health emergency. The intent of these rules is to provide for the expedited issuance of certificates of

qualification to qualified physicians and licenses to qualified physician and anesthesiologist assistants who desire to provide health care to citizens of Alabama suffering from and affected by SARS-CoV-2 and the disease known as COVID-19. The State Board of Medical Examiners hereby finds that physician applicants who satisfy the requirements of Ala. Admin. R. 540-X-3-.25 are eligible for emergency certificates of qualification by endorsement; physician assistant applicants who satisfy the requirements of Ala. Admin. R. 540-X-7-.69 and .70 are eligible for emergency licenses; and anesthesiologist assistant applicants who satisfy the requirements of Ala. Admin. R. 540-X-7-.71 and .72 are eligible for emergency licenses.

Before promulgating these rules, Board leadership consulted with Dr. Scott Harris, State Health Officer, and members of the Medical Licensure Commission, reviewed similar measures implemented by other states and state medical boards, and received input from interested stakeholders, including institutions representing license holders. As a result, the Board determined that relaxing the licensure process for physicians, physician assistants, and anesthesiologist assistants during this state of emergency is necessary to protect the imminent threat to the health, safety, or welfare of the citizens of Alabama.

NEW

540-X-3-.25ER Applicants for Emergency Certificate of Qualification by Endorsement.

(1) Preamble. On March 13, 2020, the Governor of the State of Alabama declared the existence of a state public health emergency based on the appearance of the Severe Adult Respiratory Syndrome-Coronavirus-2 (SARS-CoV-2). On March 18, 2020, the Governor proclaimed the existence of conditions that warrant the implementation of extraordinary measures and relief during the existing state health emergency to guard public health and protect human life. On July 2, 2020, the Governor extended the state of emergency for a second time to last until September 9, 2020. The Governor found that "it is impossible to predict how long the COVID-19 pandemic will require the existence of a state of emergency." Accordingly, the State Board of Medical Examiners hereby finds that the continued need for qualified physicians to provide medical services in Alabama warrants the emergency adoption of this rule to provide for the issuance of an emergency certificate of qualification to physicians licensed in other states who may assist with this health emergency. The intent of this rule is to provide for the expedited issuance of a certificate of qualification to qualified physicians who desire to provide health care to citizens of Alabama suffering from and affected by SARS-CoV-2 and the disease known as COVID-19. The State Board of Medical Examiners hereby finds that physician applicants who satisfy the requirements of this rule are eligible for an emergency certificate of qualification by endorsement.

(2) The State Board of Medical Examiners may issue an emergency certificate of qualification by endorsement on behalf of a person who presents evidence satisfactory to the Board showing all of the following:

(a) Possession of a full and unrestricted license to practice medicine issued by the appropriate medical licensing board of another state, the District of Columbia, a territory of the United States, or a province of Canada;

(b) Graduation from a medical school accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation, or a medical school listed on the International Medical Education Directory or its equivalent;

(c) Passage of each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) or any of their predecessor examinations accepted by the applicant's licensing board as an equivalent examination for licensure purposes;

(d) Successful completion of graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(e) Has never been convicted, received adjudication, community supervision, or deferred disposition of any felony offense or any crime related to fraud, violence, sexual violations, or related to the practice of medicine;

(f) Has never had his or her medical license subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to the non-payment of fees related to a license;

(g) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration;

(h) Is not currently under investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction; and

(i) Is a United States citizen, a national of the United States, or an alien lawfully present in the United States.

(3) An emergency certificate of qualification issued under this rule shall expire one hundred twenty (120) days after the effective date of this rule. The effectiveness of this rule, and any licenses issued under it, may be extended by order of the Governor.

(4) A physician who is issued an emergency certificate of qualification shall also be issued a restricted Alabama Controlled Substances Certificate for the purpose of treating patients suffering from and affected by SARS-CoV-2 and the disease known as COVID-19. The certificate shall not authorize the physician to prescribe controlled substances via telemedicine.

(5) A physician applying for an emergency certificate of qualification shall certify to the State Board of Medical Examiners that the physician intends to practice medicine to provide health care to citizens of Alabama suffering from and affected by SARS-CoV-2 and the disease known as COVID-19.

(6) Applicants for an emergency certificate of qualification shall not be required to pay a fee.

(7) Applicants shall be entitled to the expedited issuance of an emergency certificate of qualification upon certification of the applicant's satisfaction of this rule by the Executive Director or Associate Executive Director of the State Board of Medical Examiners, or his or her designee.

(8) The emergency certificate of qualification shall clearly indicate that it is an emergency certificate.

**Author**: Alabama Board of Medical Examiners.
**Statutory Authority**: Code of Alabama 1975, § 34-24-53, § 34-24-73(b).
**History**: Emergency New Rule Pursuant to Governor Kay Ivey's Declaration of State of Emergency March 13, 2020, as supplemented. Approved: July 15, 2020. Effective Date of Emergency Rule: July 21, 2020.