

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 18th day of August, 2021.

AGENCY NAME: Alabama State Board of Medical Examiners

RULE NO. AND TITLE: 540-X-3-.26ER, Applicants for Emergency Certificate of Qualification by Endorsement

EFFECTIVE DATE OF RULE: August 18, 2021

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)

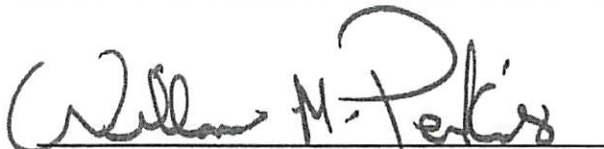
STATUTORY AUTHORITY: Code of Alabama 1975, § 34-24-70

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:

Carla H. Kruger
PO Box 946
Montgomery AL 36101-0946
(334) 242-4116

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

AUG 19 2021

LEGISLATIVE SVC AGENCY



ALABAMA STATE BOARD OF MEDICAL EXAMINERS

P.O. BOX 946
MONTGOMERY, ALABAMA 36101-0946
848 WASHINGTON AVE.
MONTGOMERY, ALABAMA 36104

TELEPHONE: (334) 242-4116
FAX: (334) 242-4155
E MAIL: bme@albme.org

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

On August 13, 2021, the Governor of the State of Alabama declared the existence of a state public health emergency based on the extreme stress the steep rise in COVID-19 disease cases has put on Alabama hospitals.

Notably, the Governor's August 13, 2021, declaration of a state public health emergency found that "hospitalizations in Alabama have climbed from 235 (as of July 6, 2021) to 2,441 (as of August 12, 2021) . . . the current number of COVID-19-related hospitalizations is quickly approaching [a] record number . . . [and] as of August 12, 2021, 95 percent of beds in intensive care units in Alabama hospitals were occupied." The Governor further stated that "the COVID-19 virus persists in Alabama and the nation, and it continues to present a serious threat to public health, taxing Alabama hospitals, many of whom were already struggling to staff their facilities." The State Board of Medical Examiners agrees with this finding and assessment.

The August 13, 2021, emergency declaration authorizes the Alabama State Board of Medical Examiners to adopt emergency rules to allow expedited licensure for the practice of medicine within an inpatient unit, emergency department, or other acute care unit located within a general acute care hospital, a critical access hospital, or a specialized hospital licensed as such by the Alabama Department of Public Health.

The State Board of Medical Examiners hereby finds that the continued need for qualified physicians to provide medical services in Alabama hospitals warrants the emergency adoption of these rules to provide for the issuance of emergency licenses to physicians licensed in other states who may assist with this health emergency. The State Board of Medical Examiners hereby finds that physician applicants who satisfy the requirements of Ala. Admin. R. 540-X-3-.26ER 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 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.

540-X-3-.26ER 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." On July 6, 2021, the Governor terminated the public health emergency. On August 13, 2021, noting that the steep rise in COVID-19 cases in the weeks since the emergency was terminated has put extreme stress on Alabama hospitals, the Governor declared a state public health emergency for the disease referenced as "COVID-19" to include all existing and future variants, mutations, and forms of the SARS-CoV-2 virus. Accordingly, the State Board of Medical Examiners finds that an emergency need exists for qualified physicians to provide medical services in Alabama, and that this need 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;

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

(j) Has obtained and provides to the Board written verification from the hospital administrator or chief of the medical staff of a general acute care hospital, a critical access hospital, or a specialized hospital licensed as such by the Alabama Department of Public Health stating that the applicant will provide medical care to patients in inpatient units, emergency departments, or other acute care units and that the facility is providing care to persons suffering from and affected by SARS-CoV-2 and the disease known as COVID-19.

(3) An emergency certificate of qualification issued under this rule shall expire one hundred twenty (120) days after the effective date of this rule, or when the Governor proclaims the termination of the state's public health emergency, whichever is sooner. The effectiveness of this rule, and any licenses issued under it, may be extended by specific order of the Governor.

(4) A physician who is issued an emergency certificate of qualification shall be restricted to providing medical care to patients in inpatient units, emergency departments, or other acute care units at the general acute care hospital, critical access

hospital, or specialized hospital identified in his or her application. A physician who is issued an emergency certificate of qualification may designate a new or additional practice site by providing to the Board written verification from the hospital administrator or chief of the medical staff of the general acute care hospital, critical access hospital, or specialized hospital licensed as such by the Alabama Department of Public Health stating that the physician will provide medical care to patients in inpatient units, emergency departments, or other acute care units and that the facility is providing care to persons suffering from and affected by SARS-CoV-2 and the disease known as COVID-19.

(5) A physician who is issued an emergency certificate of qualification shall also be issued an Alabama Controlled Substances Certificate for the purpose of providing medical care to patients in inpatient units, emergency departments, or other acute care units in a facility that is providing care to persons suffering from and affected by SARS-CoV-2 and the disease known as COVID-19.

(6) 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.

(7) Applicants for an emergency certificate of qualification and Alabama Controlled Substance Certificate under this rule shall not be required to pay a fee.

(8) 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.

(9) 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 Rule Adopted August 18, 2021. Filed/Effective Date: August 18, 2021.