

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 610 Department or Agency Alabama Board of Nursing
Rule No. 610-X-1
Rule Title Administration and Organization
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

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 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 Reference Service.

Signature of certifying officer *Genevieve Yee*

Date 3-21-2011

DATE FILED
(STAMP)

APA-2
11/96

ALABAMA BOARD OF NURSING

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Nursing

RULE NO. & TITLE: Chapter 610-X-1, Administration and Organization

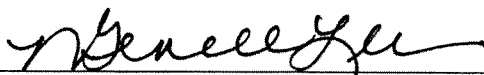
INTENDED ACTION: The Alabama Board of Nursing proposes to amend the regulations related to administration and organization of the Board.

SUBSTANCE OF PROPOSED ACTION: The Alabama Board of Nursing proposes to amend Administrative Code, Chapter 610-X-1, Administration and Organization. A copy of the proposed amended rule may be found on the Board's web site, www.abn.alabama.gov, under "proposed rule changes." The proposed changes clarify requirements for Board positions and official minutes of the Board.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments will be received by the Board of Nursing until 4:30 P.M. on Thursday, May 5, 2011. Verbal or written comments be directed to N. Genell Lee, Executive Officer, at P.O. Box 303900, Montgomery, AL 36130-3900 or via electronic mail at Genell.Lee@abn.alabama.gov or via telephone at 334-242-4184.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
The record closes at 4:30 P.M. on Thursday, May 5, 2011.

CONTACT PERSON AT AGENCY: N. Genell Lee, Executive Officer.



Executive Officer

ALABAMA BOARD OF NURSING

Chapter 610-X-1

Organization and Administration

Table of Contents

- 610-X-1-.01 Implementation of Nurse Practice Act
- 610-X-1-.02 Composition of the Board
- 610-X-1-.03 Officers of the Board
- 610-X-1-.04 Meetings of the Board
- 610-X-1-.05 Information
- 610-X-1-.06 Advisory Councils
- 610-X-1-.07 Rules and Regulations
- 610-X-1-.08 Petition for Adoption, Amendment or Repeal of a Rule
- 610-X-1-.09 Declaratory Rulings
- 610-X-1-.10 Public Inspection of Rules
- 610-X-1-.11 Public Records and Rosters
- 610-X-1-.12 Board Member Compensation

610-X-1-.01 Implementation of Nurse Practice Act.

The Alabama Nurse Practice Act, **Code of Alabama, 1975**, § 34-21-1 et seq., provides that in order to safeguard life and health, licensure is required for any person practicing or offering to practice professional nursing or practical nursing in this state, for compensation. The Act creates a Board of Nursing with regulatory authority, dictates the Board's composition and qualifications, methods of appointment and term of office. The Act specifies Board functions and duties thus providing for the implementation of the Nurse Practice Act through the adoption of rules and regulations.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-1 et seq.

History: Effective September 29, 1982. Filed September 20, 2002. Effective October 25, 2002.

610-X-1-.02 Composition of the Board.

(1) The Alabama Board of Nursing is composed of eight registered nurses, four licensed practical nurses, and one consumer.

(a) Two of the eight registered nurse positions are designated for advanced practice nurses.

(b) Three of the registered nurse positions are designated for nurse administrators, staff, or practice-related registered nurses.

(c) Three of the registered nurse positions are designated for nursing educators who teach nursing in a university or college.

(d) Two of the licensed practical nurse positions are nominated by the Alabama Federation of Licensed Practical Nurses.

(e) Two of the licensed practical nurse positions are nominated by the Licensed Practical Nurse Association of Alabama.

(2) The members of the Board are appointed by the Governor of the State of Alabama to serve for a period of four years. No member may be appointed to more than two consecutive terms.

(3) The Governor shall appoint an eligible person to complete the unexpired term of any vacated Board position.

(4) Each registered nurse and licensed practical nurse shall be actively engaged in nursing immediately preceding and during appointment to the Board.

Author: Alabama Board of Nursing.

Statutory Authority: Code of Alabama, 1975, § 34-21-2.

History: Effective September 29, 1982. Amended March 24, 1984. Amended November 26, 1997. Filed September 20, 2002. Effective October 25, 2002.

Amended: Filed March 24, 2006. Effective April 28, 2006. Proposed amended rule filed March 21, 2011.

610-X-1-.03 Officers of the Board.

(1) The Board shall elect from its members a president, vice-president and a secretary. The election of officers shall be held at the ~~annual~~ November meeting.

(2) The Vice-President shall fill any vacancy in the office of the president. The President shall appoint a member to fill a vacancy in the office of vice-president or secretary. The President's appointment is subject to Board approval.

(3) The duties of the officers shall be as follows:

(a) The president shall preside at meetings of the Board, appoint members to serve on committees as may be created, and serve as ex-officio member of all committees.

(b) The vice-president shall preside in the absence of the president and shall assume the duties of the president when necessary.

(c) The secretary shall be responsible for the minutes of the meetings and shall assume other duties at the discretion of the president.

(4) The elected officers of the Board comprise the Board's Executive Committee. The Executive Committee is responsible for:

(a) Developing the Board meeting agenda.

(b) Facilitating evaluation of the Executive Officer.

(c) Assuring Board representation at legislative hearings, meetings, sunset reviews and requested public presentations.

(d) Participation in orientation of newly appointed Board members.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-2.

History: Effective September 29, 1982. Filed September 20, 2002. Effective October 25, 2002. **Amended:** Filed March 24, 2006. Effective April 28, 2006. Proposed amended rule filed March 21, 2011.

610-X-1-.04 Meetings of the Board.

(1) A minimum of ~~four~~ six regular meetings shall be held each year. The annual meeting shall be the ~~first~~ November regular meeting. ~~of the fiscal year.~~

(a) Meeting notices shall be posted on the Secretary of State's web site as required by the Alabama Open Meetings Act.

(b) The Board may post meetings on the Board's web site.

(2) Special meetings may be called at the request of the president or upon the request of three members of the Board.

(3) A majority of the Board, including at least one officer, shall constitute a quorum at any meeting.

(4) Requests to present information to the Board during a Board meeting shall be directed to the Executive Officer at least fourteen days prior to the meeting.

(5) The secretary or designee shall keep a record of all meetings. The minutes shall be transcribed and presented for approval or amendment at the

next regular two-day meeting. The minutes or a true copy thereof, certified by a majority of the Board, shall be open to public inspection. The minutes shall reflect:

- (a) The time and place of each regular meeting of the Board.
- (b) Announcement of a quorum.
- (c) A statement of compliance with the Alabama Open Meetings Act.
- (~~b~~d) Names of the Board members present and those who may be absent.
- (i) Late arrivals or early departures shall be documented in the minutes.
- (ii) Any Board member's absence during deliberation or action on agenda items.
- (~~e~~e) All official acts of the Board

(~~f~~f) The vote of the individual Board members except when the votes are unanimous. When requested by a dissenting Board member, specific reasons for the dissenting vote shall be recorded in the minutes.

(6) A roll call vote may be taken upon the request of a Board member.

(7) All meetings of the Board shall be held in compliance with the Alabama Open Meetings Act.

(8) Meetings of the Board, except executive sessions, may be openly recorded provided the recording does not disrupt the conduct of the meeting. Requests to record Board meetings, or portions thereof, shall be directed to the Executive Officer at least 15 minutes prior to the beginning of the meeting to allow assistance with placement of equipment and personnel. Any disruption in the conduct of the meeting shall be addressed by either the Executive Officer, the President of the Board, or the Board members.

(9) Board meetings shall be conducted in accord with Robert's Rules of Order except as provided by law.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-2.

History: Effective September 29, 1982. Amended March 24, 1984. Amended October 24, 1985. Filed September 20, 2002. Effective October 25, 2002.

Amended: Filed March 24, 2006. Effective April 28, 2006. Proposed amended rule filed March 21, 2011.

610-X-1-.05 Information.

Members of the general public may obtain information, make submissions, or requests to the Executive Officer, Alabama Board of Nursing, P.O. Box 303900, Montgomery, Alabama 36130.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-2(l), 41-22-4.

History: Effective September 29, 1982. Filed September 20, 2002. Effective October 25, 2002. **Amended:** Filed March 24, 2006. Effective April 28, 2006.

610-X-1-.06 Advisory Councils.

(1) The Board may appoint Advisory Councils as deemed necessary.

(2) The Board shall determine the functions or purposes of the Advisory Council(s), appoint the members and set the terms of membership.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-3.

History: Effective September 29, 1982. Filed September 20, 2002. Effective October 25, 2002.

610-X-1-.07 Rules and Regulations. All rules and regulations of the Board shall be adopted, amended or repealed in accordance with the Alabama Administrative Procedure Act, Code of Alabama, 1975, § 41-22-1 et seq.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-2(1), 41-22-.5.

History: Effective September 29, 1982. Amended April 27, 1984. Filed September 20, 2002. Effective October 25, 2002.

610-X-1-.08 Petition for Adoption, Amendment or Repeal of a Rule.

(1) Any interested person may petition the Board requesting the adoption of a new rule or the amendment or repeal of an existing rule. The petition shall be in writing and shall include:

(a) The name and address of the petitioner.

(b) An exact statement of the proposed additional rule or amendment or identification of the rule to be repealed.

(c) The pertinent facts, data, opinions or arguments in support of the petitioner's position.

(2) Within sixty days after submission of a petition, the Board shall initiate rule-making proceedings or deny the petition in writing on the merits, stating its reasons for the denial; provided, however, that the Board may by written notice extend said period for thirty days when a regularly scheduled meeting occurs beyond the 60-day period.

(3) A petition requesting adoption, amendment, or repeal of a rule shall not be considered by the Board if the subject of the petition is the same or similar to the subject presented in another petition considered by the Board within the previous twelve months.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 41-22-8.

History: Effective September 29, 1982. Filed September 20, 2002. Effective October 25, 2002.

610-X-1-.09 Declaratory Rulings.

Any person substantially affected by a rule may petition the Board for a declaratory ruling with respect to the validity of a rule or the applicability to any person, property or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Board.

(1) The petition shall be in writing and shall include:

(a) The name and address of the petitioner.

(b) A statement of facts sufficient to show that the person seeking relief is substantially affected by the rule.

(c) The rule, statute or order and the reasons for the questions.

(2) Failure of the Board to issue a declaratory ruling within forty-five days of date of receipt of request shall constitute a denial of the request.

(3) Circumstances in which rulings shall not be issued include but are not necessarily limited to:

(a) Lack of jurisdiction.

(b) Lack of clarity of the issue presented.

(c) No clear answer determinable.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 41-22-11.

History: Effective September 29, 1982. Amended March 24, 1984. Filed September 20, 2002. Effective October 25, 2002.

610-X-1-.10 Public Inspection of Rules.

(1) All rules and other written statements of policy or interpretations formulated, adopted or used by the Board in the discharge of its functions shall be made available for public inspection and copying.

(2) All final orders, decisions and opinions of the Board shall be available for public inspection and copying except those expressly made confidential or privileged by statute or order of the court.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 41-22-4.

History: Effective September 29, 1982. Filed September 20, 2002. Effective October 25, 2002.

610-X-1-.11 Public Records and Rosters.

(1) The minutes of the Board, except those portions authorized by law to be kept confidential, and the name and address of licensees shall be open to public inspection.

(2) ~~Citizens of Alabama~~ Members of the public who wish to either examine or duplicate a public record(s) may do so in accordance with the following:

(a) The examination or duplication of a public record(s) shall be in the office of the Board and under the supervision of the Executive Officer or an authorized designee.

(b) A fee shall be assessed for the cost of duplication.

(3) A roster of names and addresses of licensees is available for purchase. Any request for purchase of the public roster of licensees shall:

~~—(a) Be submitted in writing to the Executive Officer or the designated provider of the service—online on the Board's web site.~~

~~—(b) Provide verification by the purchaser that the:~~

~~—(i4) Materials to be disseminated shall not be published in a manner which could be construed by the public to mean that the Board supports, endorses, or approves the materials.~~

~~(ii5) Purchaser shall not release or sell the roster to a third party.~~

~~—(c) Result in a fee as published in the Board's fee schedule.~~

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-2(l).

History: Effective September 29, 1982. Amended March 24, 1984. Filed September 20, 2002. Effective October 25, 2002. **Amended:** Filed March 24, 2006. Effective April 28, 2006. Proposed amended rule filed March 21, 2011.

610-X-1-.12 Board Member Compensation.

(1) Each member of the Board shall receive daily compensation as authorized by the Board for each day that the member attends Board meetings or engages in other duties of the Board, including but not limited to hearings, survey visits, conferences, and other meetings.

(2) At each September meeting, the board shall set the amount of daily compensation to be received by Board members for the subsequent fiscal year.

(3) In addition to the daily compensation set by the Board, each member shall receive for expenses incurred in the discharge of Board duties the same per diem and travel allowance as is paid by law to state employees.

(4) The President, if authorized by the Board, may receive an additional one day of daily compensation per month.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama. 1975, § 34-21-2(e).

History: Effective November 4, 1989. Filed September 20, 2002. Effective October 25, 2002. Proposed amended rule filed March 21, 2011.