

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 680 Department of Agency: Alabama State Board of Pharmacy

Rule No. 680-X-2-.14

Rule Title: **THE ROLE OF TECHNICIANS IN PHARMACIES IN ALABAMA**

 New xx 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 rule making 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 Mitzi G. Ellenburg
Mitzi G. Ellenburg, Director of Operations

Date: December 22, 2015

(DATE FILED)
(STAMP)

**ALABAMA STATE BOARD OF PHARMACY
NOTICE OF INTENDED ACTION**

AGENCY NAME: ALABAMA STATE BOARD OF PHARMACY

RULE NO. AND TITLE: THE ROLE OF TECHNICIANS IN PHARMACIES IN ALABAMA

INTENDED ACTION: AMENDED

SUBSTANCE OF PROPOSED ACTION:

The Alabama State Board of Pharmacy proposes to amend this rule to require an individual seeking registration as a pharmacy technician to be subject to a Board approved criminal background check, the cost of which to be paid by the applicant.

TIME, PLACE, MANNER OR PRESENTING VIEW:

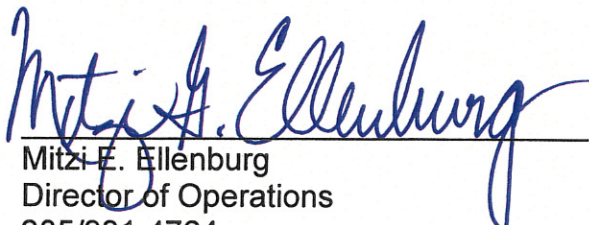
Comments can be presented at the public hearing scheduled at 9:00 a.m. on February 17, 2016 at the Alabama State Board of Pharmacy located at 111 Village Street, Birmingham, Alabama 35242. Additionally, written comments may be addressed to Mitzi Ellenburg, Director of Operations, Alabama State Board of Pharmacy, at the same address. Written comments must be received in the Board Office no later than 4:00 p.m. on March 7, 2016.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

March 7, 2016

CONTACT PERSON AT AGENCY:

Mitzi Ellenburg
Director of Operations
205/981-4764


Mitzi E. Ellenburg
Director of Operations
205/981-4764

680-X-2-.14 THE ROLE OF TECHNICIANS in PHARMACIES in ALABAMA.

(1) Title 34, Chapter 23, Code of Alabama 1975, specifies that only persons licensed by the Board of Pharmacy may practice pharmacy. The practice of pharmacy shall mean the interpretation and evaluation of prescription orders; the compounding, dispensing, administering and labeling of drugs and devices; the participation in drug selection and drug utilization reviews and drug therapy management; the proper and safe storage of drugs and devices and the maintenance of proper records; the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards and use of drugs and devices; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of pharmacy.

(2) The only other persons who may perform the above tasks other than a licensed pharmacist, and then only under the immediate direct supervision of a pharmacist, are the following:

(a) A person serving an internship who holds a professional degree in pharmacy from a school of pharmacy recognized by the Board.

(b) A person serving an externship who is enrolled in a school of pharmacy recognized by the Board.

(c) A person who holds an assistant's license.

(3) It is ruled by the Board of Pharmacy that three (3) technicians, one of which shall be certified by any credentialing organization approved by the Board, on duty are sufficient in the prescription area of a retail pharmacy or an institutional pharmacy for each full time licensed pharmacist on duty. Nothing in this rule shall prevent a pharmacy from employing technicians to perform supervised tasks not requiring professional judgment.

(4) In order to adequately protect the public health, technicians shall not:

(a) Communicate, orally or in writing, any medical, therapeutic, clinical or drug information, or communicate any information recorded on a patient profile that requires professional judgment.

(b) Document the receipt of a controlled substance into inventory.

(c) Accept by oral communication a new prescription of any nature.

(d) Prepare a copy of a prescription or read a prescription to another person.

(e) Provide a prescription or medication to a patient without a pharmacist's verification as to the correctness of the prescription or medication. For the purpose of this rule, verification shall mean that the licensed pharmacist shall be aware of the patient profile, DUR, computer overrides and drug interactions as well as the correctness of the selected medication and labeling.

(f) Counsel a patient on medications or perform a drug utilization review.

(g) Perform any task that requires the professional judgment of a pharmacist.

(h) Perform any task that is in violation of any federal, state or local pharmacy regulations.

(5) Written control procedures and guidelines for supervision of technicians by a licensed pharmacist and for performance of tasks by technicians shall be established and made available for review by the Board of Pharmacy.

(6) In order to be registered as a pharmacy technician in this state, an applicant shall:

(a) Have submitted a written application on a form provided by the Board of Pharmacy

(b) Have attained the age of seventeen (17).

(7) No pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes shall be eligible to be registered as a pharmacy technician.

(8) All technicians shall wear a name tag, identifying them as such, while on duty.

(9) Each technician registered by the Board shall notify the board in writing within 10 days on change of employment. The notice shall contain his/he name, registration number, the name of the pharmacy where formerly employed and the name of the pharmacy where currently employed.

(10) All pharmacy technicians shall register with the Alabama State Board of Pharmacy. This registration shall expire on December 31 of odd numbered years. Effective January 1, 2006, the initial registration fee and renewal fee shall be sixty dollar (\$60). All pharmacy technicians shall pay the renewal fee biennially with this fee being due on October 31 and delinquent after December 31 of odd numbered years. All pharmacy technician registrations shall expire on December 31 biennially in odd-numbered years. The payment of the renewal fee shall entitle the registrant to renewal of their registration at the discretion of the Board. If any pharmacy technician shall fail to pay a renewal fee on or before December 31 of any year, such registration shall become null and void, and the holder of such registration may be reinstated as a pharmacy technician only upon payment of a penalty of Ten Dollars (\$10.00) for each lapsed year and all lapsed fees for each lapsed year, provided the lapsed time of registration shall not exceed five (5) years, in which case reinstatement may be had only upon satisfactory examination by the Board. In the event an application for renewal of a pharmacy technician's registration is not received by December 31 of any odd numbered year but is received at the Board office no later than January 31 of the following year, a non-disciplinary administrative penalty in the amount of \$30.00 must be paid in order to renew. This penalty is in addition to any penalty referenced above.

(a) Every pharmacy technician registered by the Alabama State Board of Pharmacy shall, prior to reregistration, complete three (3) hours of continuing education annually, one hour of which shall be 'live' presentation.

(11) The Alabama State Board of Pharmacy shall refuse to issue a pharmacy technician registration whenever the Board finds by the preponderance of the evidence any of the following:

(a) That the applicant does not possess good moral character.

(b) That the applicant has willfully violated any of the provisions of Code of Alabama (1975), §34-23-1 et seq., or the Alabama Uniform Controlled Substances Act.

(c) That the applicant has willfully violated any rule or regulation promulgated in accordance with the provisions of Code of Alabama (1975), §34-23-1 et seq., or in accordance with the Alabama Uniform Controlled Substances Act.

(d) That the applicant has engaged in conduct which threatens the public health, safety or welfare.

(e) That the applicant has been convicted of a felony or a misdemeanor involving moral turpitude. A copy of the record of the conviction, certified by the Clerk of the Court entering the conviction, shall be conclusive evidence of the conviction.

(f) That the applicant has been convicted of a felony or misdemeanor involving a drug related offense of a legend drug or controlled substance. A copy of the record of the conviction, certified by the Clerk of the Court entering the conviction, shall be conclusive evidence of the conviction.

(g) That the applicant has been convicted of any crime or offense that reflects the inability of the applicant to engage in the performance of pharmacy technician functions with due regard for the health and safety to the public. A copy of the record of the conviction, certified by the Clerk of the Court entering the conviction, shall be conclusive evidence of the conviction.

(h) That the applicant has attempted to obtain a pharmacy technician registration by fraudulent means.

(i) That the applicant has violated any of the laws regulating the sale or dispensing of narcotics, exempt narcotics or drugs bearing the label "caution, federal law prohibits dispensing without prescription" or similar wording which causes the drugs to be classified as prescription legend drugs.

(j) That the applicant is unable to engage in the performance of pharmacy technician functions with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals or any other substance, or as a result of any mental or physical condition.

(k) The suspension, revocation or probation by another state of the applicant's license, permit or registration to practice as a pharmacy technician. A certified copy of the record of suspension, revocation or probation of the State making such suspension, revocation or probation shall be conclusive evidence of the suspension, revocation or probation.

(l) That the applicant refused to appear before the Board after having been ordered to do so in writing by the Executive Officer or President of the Board.

(m) That the applicant made any fraudulent or untrue statement to the Board.

(12) In addition to all other applicable requirements for registration as a pharmacy technician and a prerequisite for consideration of an application for registration as a pharmacy technician, each individual seeking registration as a pharmacy technician shall consent and be subject to a Board approved criminal background check, the cost of which to be paid by the applicant. The information received as a result of the background check shall be relied upon in determining whether the applicant meets the applicable qualifications to obtain the referenced registration.

Author: ~~Herb Bobo, R.Ph, Secretary~~ Dr. Timothy Martin, PharmD, President.

Statutory Authority: Code of Alabama 1975, §34-23-92.

History: Filed June 1, 1982. Amended: Filed May 30, 1990. Repealed and Replaced: Filed July 26, 1996; operative August 30, 1996; effective January 1, 1997. Amended: Filed February 13, 1997; effective March 20, 1997; Amended: Filed September 20, 1999; effective October 25, 1999. Amended: Filed April 11, 2001; effective May 16, 2001; operative January 1, 2002. Amended: Filed July 1, 2002; effective August 5, 2002. Amended: Filed January 6, 2005; effective February 10, 2005; Amended: Filed November 1, 2005; refiled December 22, 2005; effective December 22, 2005. Amended: Filed September 22, 2009; effective October 27, 2009. Amended: Filed December 8, 2009; effective January 12, 2010. Amended: Filed January 30, 2012; effective March 5, 2012. Amended: Filed January 29, 2016; effective

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**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 680 Department of Agency: Alabama State Board of Pharmacy

Rule No.: 680-X-2-.14

Rule Title: **THE ROLE OF TECHNICIANS IN PHARMACIES IN ALABAMA**

 New XX Amend Repeal Adopt by Reference

 X This rule has no economic impact.

 This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**** Additional pages may be used if needed.**