

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 610 Department or Agency Alabama Board of Nursing
Rule No. 610-X-13
Rule Title Voluntary Disciplinary Alternative Program
 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 *W. Kneel*

Date May 20, 2014

APA-2
11/96

ALABAMA BOARD OF NURSING

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Nursing

RULE NO. & TITLE: Rule 610-X-13, Voluntary Disciplinary
Alternative Program

INTENDED ACTION: The Alabama Board of Nursing proposes to amend the Chapter on the Voluntary Disciplinary Alternative Program.

SUBSTANCE OF PROPOSED ACTION: The Alabama Board of Nursing proposes to amend Chapter 610-X-13, Voluntary Disciplinary Alternative Program. Changes in the DSM IV to DSM V is one amendment as well as focusing on abstinence-based treatment and recovery. A copy of the proposed amended rule may be found on the Board's web site, www.abn.alabama.gov, under "laws" and then "proposed rule changes."

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or oral comments will be received by the Board of Nursing until 4:30 P.M. on Monday, July 7, 2014. 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 334-293-5210.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
The record closes at 4:30 P.M. on Monday, July 7, 2014.

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



Executive Officer

ALABAMA BOARD OF NURSING

Chapter 610-X-13

Voluntary Disciplinary Alternative Program

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610-X-13-.01 Definitions.

(1) American Society of Addiction Medicine Patient Placement Criteria (ASAM Criteria): ~~Current Comprehensive~~ criteria developed by the American Society of Addiction Medicine for determining appropriate treatment recommendations for substance use disorders. (Mee-Lee D, Shulman, GD, Fishman M, Gastfriend DR, and Griffith JH, eds. (2001). *ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition Revised (ASAM PPC 2R)*. Chevy Chase, MD: American Society of Addiction Medicine, Inc.)

(2) Board-Recognized Substance Use Disorders Treatment Provider: An organized program for treatment of substance use disorders that meets criteria set forth by the Alabama Board of Nursing in 610-X-13-.054.

(3) Comprehensive Evaluation: An evaluation conducted in an inpatient setting over a period of four (4) to seven (7) days by a multidisciplinary team that includes assessment of the applicant or licensed nurse's physical health, substance use, psychological and psychiatric functioning, family and social assessment, and legal and occupational history. Neuropsychological and cognitive testing, drug testing, and any other testing deemed appropriate by the evaluation team may also be included.

(4) Continuing Care/Aftercare: Sessions conducted by the substance use disorder treatment provider one (1) time per week for a MINIMUM of one (1) year after the completion of treatment. ~~Progression to one (1) time per week sessions in the treatment program are acceptable for continuing care in state-funded programs and intensive outpatient programs, if approved in advance by Board staff.~~

(5) Mental Condition: A disorder meeting diagnostic criteria for Mental Disorder as defined in the DSM-IV-TR (American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision*. Washington, DC, American Psychiatric Association, 2000); or the DSM-V (American Psychiatric Association: *Diagnostic and*

Statistical Manual of Mental Disorders, Fifth Edition, Washington, DC, American Psychiatric Association, 2013.)

(7) Substance Use Disorder: A disorder meeting the diagnostic criteria for Substance Use Disorders (either Substance Dependence or Substance Abuse) as defined in the DSM-IV-TR (American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision*. Washington, DC, American Psychiatric Association, 2000); or the DSM-V (American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Washington, DC, American Psychiatric Association, 2013.*)

(8) Treatment Recommendations: The course of treatment recommended for a nurse, including recommendations for follow up care after completion of treatment, based on a diagnosis of a Substance Use Disorder (DSM-IV-TR or DSM-V criteria) and ASAM Patient Placement Criteria for level of treatment and services required.

(9) Voluntary Disciplinary Alternative Program (VDAP): A program authorized by the Alabama Legislature to promote early identification, intervention, treatment, and rehabilitation of any registered nurse, licensed practical nurse or applicant issued a valid temporary permit for licensure whose competence is found to be impaired or compromised because of the use or abuse of drugs, alcohol, controlled substances, chemicals, or other substances or as a result of a physical or mental condition rendering the person unable to meet the standards of the nursing profession.

(10) VDAP Agreement. An agreement signed by the VDAP participant setting forth the terms and conditions with which the VDAP participant shall comply during participation in the VDAP.

(11) Sponsor: A person in recovery from a substance use disorder who acts as an accountability partner with the VDAP participant and who is willing to be identified and to provide his/her contact information to the Board.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. Amended May 15, 2002. **Amended:** Filed August 20, 2010. Effective September 24, 2010. Proposed amended rule filed May 20, 2014.

610-X-13-.02 Criteria for Eligibility.

(1) In order to gain admission to VDAP, a registered nurse, licensed practical nurse or first-time applicant for licensure in Alabama shall:

(a) Hold an active license or a temporary permit to practice nursing in the State of Alabama.

(i) An applicant for licensure by examination and a temporary permit who is requesting participation in VDAP shall sign a VDAP agreement before approval to take the Board-selected examination is granted. If the applicant does not pass the Board-selected examination, enforcement of the VDAP Agreement is considered null and void shall be stayed until passage of the Board-selected examination. If the applicant subsequently

passes the Board-selected examination, the applicant shall sign a second VDAP Agreement before the license is issued. the stay of the VDAP Agreement shall be lifted, and the applicant shall be required to comply fully with the VDAP Agreement.

(ii) An applicant for licensure by endorsement requesting participation in VDAP shall sign a VDAP Agreement before licensure is granted.

(b) Have had no previous disciplinary action against the nursing license in any state or jurisdiction nor have been terminated from any alternative disciplinary program participation for noncompliance.

(c) Voluntarily request participation in VDAP.

(d) Admit to ~~abuse of substances or substance dependence~~ a substance use disorder or a physical or mental condition that potentially renders the person unable to meet the standards of the nursing profession.

(e) Acknowledge in writing:

(i) The extent of the condition or conditions leading to the voluntary request for participation in VDAP.

(ii) That his or her conduct is unprofessional and grounds for disciplinary action.

(f) Provide disclosure authorizations, releases of liability and any other records including but not limited to evaluations and treatment information as requested by the Board.

(g) Cease nursing practice until the:

(i) Board recognized substance use disorder treatment provider provides a written opinion regarding whether the licensed nurse is ready to resume safety sensitive employment in the field of nursing.

(ii) Licensed nurse signs the VDAP Agreement for monitoring.

(h) Agree in writing to the terms set forth in the VDAP Agreement.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. **Repealed and Replaced:** Filed May 20, 2002.

Effective June 25, 2002. **Amended:** Filed November 22, 2005. Effective December 27,

2005. **Amended:** Filed August 20, 2010. Effective September 24, 2010. Proposed amended rule filed May 20, 2014.

610-X-13-.03 Requirements for Participation in Program. A licensed nurse or first-time applicant for licensure participating in the program shall:

(1) Comply with all terms set forth in the VDAP Agreement.

(2) Be responsible for all costs for treatment and monitoring including Board-required drug screens.

(3) Use Board-recognized treatment providers and laboratory facilities.

(4) Comply with instructions from the Board regarding evaluation and treatment, and follow all treatment recommendations for the duration of the VDAP Agreement.

(5) For licensed nurses or applicants with substance use disorders:

(a) Undergo a comprehensive evaluation by a Board-recognized substance use disorder treatment provider, if directed by Board staff.

(b) Be diagnosed with a substance use disorder, utilizing DSM-IV-TR or DSM-V criteria, by a licensed physician or certified registered nurse practitioner experienced in the diagnosis and treatment of substance use disorders.

(c) Receive substance use disorder treatment by a Board-recognized substance use disorder treatment provider as defined in these rules.

(d) If approved by the Board as an advanced practice nurse, the VDAP participant agrees to:

(i) Complete a comprehensive evaluation and treatment provided at a Board-recognized substance use disorder treatment provider with a health care professionals track.

(ii) Remain out of practice as an advanced practice nurse for a minimum of one year and until recommended for return to practice as an advanced practice nurse by a Board-recognized substance use disorder treatment provider with a health care professionals track.

(iii) Restricted prescriptive privileges as provided in the VDAP Agreement.

(e) Maintain a sponsor throughout the duration of the agreement if specified in the VDAP agreement.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. **Repealed and Replaced:** Filed May 20, 2002.

Effective June 25, 2002. **Amended:** Filed November 22, 2005. Effective December 27, 2005. **Amended:** Filed August 20, 2010. Effective September 24, 2010. Proposed amended rule filed May 20, 2014.

610-X-13-.04 Board Recognized Substance Use Disorder Treatment Providers.

(1) It is within the Board's discretion to recognize treatment providers for substance use disorders.

(2) The Board-recognized substance use disorder treatment provider shall meet the following criteria:

(a) Conduct or provide for, ~~by a qualified provider,~~ assessment, evaluation, diagnosis, and treatment of substance abuse or dependence, utilizing DSM-IV-TR or DSM-V criteria and providing Axis I-V assessment by a qualified provider that includes mental disorder diagnoses; factors including psychosocial, contextual and environmental factors; level of functioning; and disability.

(b) Issue t Treatment recommendations shall be based on ASAM Criteria.

(c) Conduct, during the initial phase of treatment, biological testing and screening for drugs, chemicals, and alcohol that are analyzed by qualified medical and laboratory personnel. A drug screen that is positive during treatment requires confirmation, at the applicant or licensee's ~~and nurse's~~ expense, from a laboratory approved by the Board. The treatment provider shall notify the Board's designee(s) of any drug screen deemed positive.

(d) Communicate, in a timely manner, with authorized Board designee(s), through electronic communications and written reports:

(i) Compliance or noncompliance with treatment requirements.

(ii) Data necessary to determine applicability of terms and conditions of and compliance with in the VDAP Agreement, including, but not limited to, all information required in this section, as well as reports regarding attendance at treatment and aftercare/continuing care and results of any biological testing or screening for drugs, chemicals, and alcohol.

(iii) Changes in treatment plan based on the progress of the licensed nurse or applicant, ~~in treatment.~~

~~(iv) Data essential to conduct compliance monitoring.~~

(e) Provide individualized written plan(s) of care including assessment and diagnosis, treatment goals, discharge criteria, guidelines for continuing recovery, and recommendations for return to nursing practice.

(f) ~~Be certified~~ Certification by the State Department of Mental Health or approved by a Board-recognized approving body.

(g) Conduct or provide for Continuing Care/Aftercare for a minimum one day per week for twelve months or longer if required by the treatment provider following completion of treatment. ~~Progression to one (1) time per week sessions in the treatment program are acceptable for continuing care in state-funded programs and intensive outpatient programs, if approved in advance by Board staff.~~

(h) ~~Incorporate the 12-step philosophy~~ an abstinence philosophy into treatment and require, at a minimum, the applicant or licensee's attendance at a minimum of three (3) 12-step abstinence-oriented support group meetings per week during treatment.

(i) For programs offering only intensive outpatient treatment, provide at a minimum 100 hours of treatment per episode, excluding continuing care, at least three (3) days per week in the initial phase of treatment.

(j) Provide all written records requested by the Board in a timely manner. Failure to respond to requests for written records may result in removal of the Board-recognized treatment provider from the list of Board's resources.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. **Repealed and Replaced:** Filed May 20, 2002.

Effective June 25, 2002. **Amended:** Filed November 22, 2005. Effective December 27, 2005. **Amended:** Filed August 20, 2010. Effective September 24, 2010. Proposed amended rule filed May 20, 2014.

610-X-13-.05 Causes for Denial of Admission to VDAP.

(1) Admission to the program shall be denied if the applicant for licensure or licensed nurse:

(a) Does not meet eligibility criteria established in this chapter for admission to VDAP.

(b) Is not eligible for licensure in the State of Alabama.

(c) Diverted controlled substances for other than self-administration use.

(d) Has had nursing practice problems resulting in the death of a patient or involving significant harm or potentially significant harm to a patient.

(e) Will not substantially benefit from participation in the program as determined by Board designee(s).

(f) Has a felony conviction.

(g) Has any conviction related to the sale or distribution of controlled substances or legend prescription drugs.

(h) Has one or more pending felony charges.

(i) Refuses to cooperate with requirements for participation in VDAP as established in this chapter.

(j) Has previously entered into two VDAP or Alabama Non-disciplinary Nursing Approach (ANNA) agreements, regardless of whether the agreements were successfully completed.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. **Repealed and Replaced:** Filed May 20, 2002.

Effective June 25, 2002. **Amended:** Filed November 22, 2005. Effective December 27, 2005. **Amended:** Filed August 20, 2010. Effective September 24, 2010. Proposed amended rule filed May 20, 2014.

610-X-13-.06 Causes for Termination from the Program.

(1) Prior to successful completion of compliance with the VDAP Agreement, a participant may be terminated from the program at the discretion of the Board for the following reason(s):

- (a) Noncompliance with any aspect of the VDAP Agreement.
 - (b) Any violation of federal or state statutes or rules.
 - (c) Receipt of information by the Board, which after investigation, results in disciplinary action by the Board.
 - (d) No longer meets the eligibility criteria established in this chapter.
 - (e) Any reason that constitutes Cause for Denial of Admission to VDAP as established in this chapter.
- (2) Completion of the VDAP Agreement requires:

- (a) Compliance with all program requirements specified in the VDAP agreement.
- (b) Receipt of written notice of formal release as approved by the Board.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. **Repealed and Replaced:** Filed May 20, 2002. Effective June 25, 2002. **Amended:** Filed August 20, 2010. Effective September 24, 2010. Proposed amended rule filed May 20, 2014.

610-X-13-.07 Confidentiality of Records.

Confidentiality of records shall be consistent with requirements of the **Code of Alabama 1975** Section 34-21-25.

Author: Alabama Board of Nursing

Statutory Authority: Code of Alabama, 1975, § 34-21-25.

History: Effective August 29, 1994. **Repealed and Replaced:** Filed May 20, 2002. Effective June 25, 2002.