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CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Wednesday, October 21, 2026, and filed with the agency secretary on Wednesday, November 18, 2026.

AGENCY NAME: Alabama State Board of Pharmacy

INTENDED ACTION: New

RULE NO.: 680-X-1-.06
(If amended rule, give specific paragraph, subparagraphs, etc., being amended) **(2)**

RULE TITLE: Officers of the Board

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted with changes. ALABAMA STATE BOARD OF PHARMACY
CONCISE STATEMENT OF THE PRINCIPAL REASONS FOR AND AGAINST THE ADOPTION OF RULE 680-X-1-.06, OFFICERS OF THE BOARD
Issued pursuant to Ala. Code § 41-22-5(a)(2)
October 21, 2026

I. Procedural Background
On July 15, 2026, the Alabama State Board of Pharmacy filed with the Legislative Services Agency, Legal Division, a Notice of Intended Action to adopt new Rule 680-X-1-.06, "Officers of the Board," together with the complete text of the proposed Rule. The Notice stated that written comments would be received through the end of business on September 15, 2026, and that a public hearing would be conducted on September 16, 2026, beginning at 9:00 a.m. Central Time at the Board's offices at 111 Village Street, Birmingham, Alabama.
The Board received and has considered one written comment in opposition to the proposed Rule, submitted on September 15, 2026.
The Board sustained one of the considerations urged in the comment and voted to adopt the proposed Rule with an amendment, as discussed more fully in Part III. The Board overruled the remaining considerations for the reasons stated in Part IV. Because conflicting views were submitted on the proposed Rule, the Board issues this "concise statement" pursuant to Ala. Code § 41-22-5(a)(2).
II. Principal Reasons for Adoption
The Board adopts Rule 680-X-1-.06 for three principal reasons.
First, the Alabama Administrative Procedure Act directs agencies to adopt rules of this nature. Section 41-22-4(a)(1) directs every agency to "[a]dopt as a rule a description of its organization, stating the general course and method of its operations," and § 41-22-4(a)(2) directs every

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agency to "[a]dopt rules of practice setting forth the nature and requirements of all formal and informal procedures available." The Board's existing rules in Chapter 680-X-1 identify the Board's composition, but do not describe the offices through which the Board conducts its operations or the duties attached to those offices. Rule 680-X-1-.06 supplies that description and brings the Board into more robust compliance with § 41-22-4(a).

Second, the Legislature's recent reorganization of the Board makes written governance rules timely. Act 2025-372 and Act 2026-158 substantially restructured the Board's membership. Reducing the resulting allocation of responsibility to writing gives Board members, Board staff, licensees, and the public a single authoritative statement of which offices exist, how each is filled, and what each officeholder may and may not do. A Board that operates under unwritten procedures invites inconsistencies and disputes. Adoption of Rule 680-X-1-.06, by contrast, will help to solidify and institutionalize the reforms brought about in Act 2025-372.

Third, the Rule formally conforms the Board's internal practice to the Pharmacy Practice Act. Subsection (1) implements the annual election prescribed by § 34-23-90(e)(3), under which the Board "shall elect for a term of one year … a president, a vice president, and a treasurer who shall be pharmacist members of the board." Subsection (4)(a) implements the direction in § 34-23-91(a) that "[t]he president of the board shall preside at all of the board's meetings." Subsections (4)(c) and (7)(h) implement the requirement of § 34-23-91(d) that disbursements be made by check as authorized by vouchers signed by the President and the Executive Secretary. Subsection (6)(a) implements the Treasurer's custody of Board funds under § 34-23-91(d), and subsections (6)(b) and (7)(i) implement the bonding requirement of § 34-23-91(a). Subsection (7) implements the Executive Secretary's role as executive officer under §§ 34-23-90(e)(4) and 34-23-91(a).

III. Consideration Urged Against Adoption That the Board Sustains, and the Resulting Amendment

A. Succession to office following a vacancy in an elective office under subsection (2).

The comment argues that § 34-23-90(e)(3) commits the choice of the Board's officers to the Board by election; that subsection (2)(a), as initially proposed, elevated the Vice-President to the office of President automatically, without a vote of the Board; and that subsection (2)(b) as proposed allowed the President to appoint a member to a vacant office of Vice-President or Treasurer, leaving the Board only the power to ratify that choice.

The Board sustains this consideration and has amended subsection (2) to better align with the language of the statute. Subsection (2)(a), as adopted, no longer elevates the Vice-President to the office of President. Under the amended and adopted language of the Rule, upon a vacancy in the office of President, that office remains vacant for the remainder of the term, and the Vice-President remains Vice-President and performs all duties and exercises all powers of the office of President for the duration of the vacancy. The Board believes that this approach more closely follows § 34-23-91(a), which assigns to the Vice-President the duty to "preside in the absence or inability of the president," and that it conforms to subsection (5) of the Rule. Because the Act already designates the officer who discharges the President's duties when the President cannot, a vacancy in that office leaves no duty unassigned and calls for no further action by the Board.

Subsection (2)(b), as amended and adopted, fills a vacancy in the office of Vice-President or Treasurer by election of the Board. The President neither nominates nor appoints a successor, and the initially proposed provision for ratification of a presidential appointment has been removed. A vacancy in either of those offices, unlike a vacancy in the presidency, leaves the office's duties unassigned, and the Board fills it by the same means § 34-23-90(e)(3) prescribes for the annual selection of officers. The governing statutes are silent as to vacancies in the Board's offices, and the Board has filled that gap by rule.

IV. Considerations Urged Against Adoption That the Board Overrules, and Its Reasons

A. That the Rule does not restate the qualifications for the Executive Secretary prescribed by Ala. Code § 34-23-90(e)(4)a.

The comment observes that subsection (7), as proposed, recited the portions of § 34-23-90(e)(4)a. providing that the Executive Secretary is appointed by the Board and serves at its pleasure, while omitting the five-year bar on appointing a person who has served the Board in any capacity, the bar on appointing a sitting Board member, and the bar on appointing a person employed by a holder of a license, permit, certificate, or registration issued by the Board.

The Board overrules this consideration. As a preliminary matter, the Board notes that its present Executive Secretary satisfies all of the requirements of § 34-23-90(e)(4)a.

The Board acknowledges that, by statute, the Executive Secretary "may not have served in any capacity for the board, including as secretary, during the five years prior to his or her appointment. The secretary may not serve as a member of the board and may not be employed during his or her service by any person holding a license, permit, certificate, or registration issued by the board." Ala. Code § 34-23-90(e)(4)a. Those eligibility restrictions bind the Board by their own force, and they bind the Board identically whether or not the Rule recites them. Subsection (7) of the Rule, as proposed and as adopted, expressly refers to that subdivision, providing that the Executive Secretary shall serve "as prescribed in Ala. Code §§ 34-23-90(e)(4) . . . ." Nothing in the Rule authorizes or contemplates an appointment that conflicts with § 34-23-90(e)(4)a.

B. That subsection (7) confers on the Executive Secretary authority that Ala. Code §§ 34-23-92(6) and (7) reserve to the Board.

The comment next argues that § 34-23-91(a) defines the secretary's role in limited, ministerial terms; that § 34-23-92(6) vests the power to employ the Board's personnel in the Board itself; and that § 34-23-92(7) places the Board's drug investigators under the supervision of the Board. It objects principally to subsection (7)(a), which directs the Executive Secretary to "[d]irect, manage, and supervise, as directed by the Board, the regular daily activities and operations of the Board," and to subsection (7)(b), which directs the Executive Secretary to "[h]ire, supervise, direct, and discharge the staff of the Board."

The Board overrules this consideration. Section 34-23-91(a) provides that "[t]he secretary of the board shall be the executive officer in charge of the board's office," and that the secretary "shall attend to the correspondence of the board and perform any other duties the board may require in keeping with the office of secretary." Direction of the office's daily operations and supervision of the personnel who staff that office are duties in keeping with the office of an "executive officer in charge" of that office. The duties assigned to the Executive Secretary by

subsections (7)(a) and (7)(b) of the Rule plainly fall within § 34-23-91(a).

The comment also misapprehends the meaning of Ala. Code § 34-23-92(6) and (7). Section 34-23-92 is best understood as enumerating the powers and duties of "the board" as an agency. It neither provides nor contemplates that each enumerated function must be performed personally by the nine members of the Board. Section 34-23-92(9) directs that the board "[i]nvestigate alleged violations of this chapter," yet no one supposes that the nine members personally conduct investigations; § 34-23-92(7) contemplates that investigators do. Section 34-23-92(15) directs the board to furnish a certified copy of a license or permit "under its seal and signed by the secretary," which contemplates that the Executive Secretary will execute a duty the section assigns to "the board." Sections 34-23-92(10), (11), (13), and (14), which address the issuance of subpoenas, the administration of oaths, the enforcement of the state's drug laws, and cooperation with prosecuting officers, are of the same character. Under the commenter's interpretation, § 34-23-92 would require the Board's nine members to perform personally a range of functions that no board of nine could perform.

The structure of the Act confirms the point. The Board is a nine-member body that can act only as a governing body, in public meetings noticed and conducted under the Alabama Open Meetings Act, Ala. Code § 36-25A-1 et seq. Section 34-23-91(c) requires the Board to meet only three times a year, although it may meet more often as necessary. A construction under which the nine members must personally direct and supervise the daily operations of the Board's office would leave the agency without direction between meetings. The Legislature avoided this result by making the Executive Secretary "the executive officer in charge" of the Board's office. The day-to-day oversight, direction, and management of the Board's institutional functions must as a practical matter be carried out by and under the supervision of the Executive Secretary, subject ultimately, of course, to the institutional direction of the nine-member Board.

C. That subsections (6)(a) and (7)(g) enlarge Ala. Code § 34-23-91(d) and entrench custody of Board funds outside the State Treasury.

Next, the comment argues that subsection (6)(a), which gives the Treasurer custody of "all funds of the Board," enlarges § 34-23-91(d), which gives the Treasurer custody of "all funds derived from the various provisions of this chapter," and that the Rule, read against Executive Order 726 and the reports of the Examiners of Public Accounts, uses the rulemaking process to codify the custody of public funds outside the State Treasury.

The Board overrules this consideration. The challenged provisions of the Rule precisely track the language of the governing statutes. Section 34-23-91(d) places "all funds derived from the various provisions of this chapter" in the custody of the Treasurer, and § 34-23-91(a) directs the Executive Secretary to receive and record the fees collected under the chapter and to pay them to the Treasurer at regular intervals as the Board orders. The formulations the comment contrasts — "all funds derived from the various provisions of this chapter," "all funds of the Board, as provided in Section 34-23-91(d), Code of Alabama 1975," and "all fees, assessments, monetary penalties, and other revenues collected under authority of the Pharmacy Practice Act" — all describe exactly the same universe of funds. Nothing in subsection (6)(a) of the Rule enlarges the scope of Ala. Code § 34-23-91(d).

D. That the seven-vote requirement in subsection (3) for the removal of an officer lacks statutory authority.

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The comment argues that no provision of the Pharmacy Practice Act authorizes a supermajority for the removal of an officer, that the Board otherwise acts by majority, and that a seven-vote threshold on a nine-member Board makes an officer nearly impossible to remove.

The Board overrules this consideration. The Act prescribes no procedure at all for removing an officer from office, and fixes no vote for doing so. Section 34-23-91(c), on which the comment relies, provides that "[a]t all meetings of the board, a majority shall constitute a quorum." That language establishes the attendance required to transact business; it fixes no voting threshold for any particular action, and it does not address the Board's officers. The Legislature expressly addressed removal where it intended to do so: § 34-23-90(e)(1) authorizes the Governor to remove a member of the Board "upon proven charges of inefficiency, incompetency, immorality, or professional misconduct." It prescribed nothing comparable for the removal of a member from an office of the Board. That silence leaves the Board free to supply a procedure as part of the description of its organization that § 41-22-4(a)(1) requires it to adopt.

The seven-vote threshold for removal of an officer before the expiration of a term reflects the Board's judgment that such an action must not turn on a shifting simple majority or on routine disagreements over particular votes. It should occur only where a substantial consensus of the Board has formed that removal has become necessary. Although circumstances warranting such an action would likely be rare, the Board considers it important to address the situation formally and in writing.

The Board does not accept the premise that subsection (3) leaves an officer unaccountable. Indeed, it is exactly the absence of subsection (3), not its enactment, that would contribute to the "entrenching" that concerns the commenter. The provision exists because there must be some pathway to remove an officer who will not properly discharge the duties of the office. A Treasurer who neglected the custody of the Board's funds under subsection (6)(a), or who failed to authorize payment of the Board's obligations as they came due, could be removed under subsection (3). What the seven-vote provision forecloses is removal for spurious or transient reasons. Subsection (3) governs removal from an office of the Board and nothing else: it does not affect any member's tenure on the Board, which § 34-23-90(e)(1) commits to the Governor, and it leaves the Board free to decline by simple majority to elect any member to the same office at the next annual election.

E. That the Notice of Intended Action failed to apprise the public of the Rule's substance and that the transmittal certifications were inaccurate.

The comment next argues that the Notice described the Rule's substance only as an effort "to outline the responsibilities of the officers of the Board," that this description concealed the Rule's treatment of the Executive Secretary's appointment and personnel authority, of Board revenues, and of officer removal, and that the Board's certification of no economic impact cannot be reconciled with a rule that directs the routing of the Board's revenues.

The Board overrules this consideration. These contentions do not address the substance of the Rule; they address the rulemaking process, which the Board has conducted in careful compliance with the Alabama Administrative Procedure Act.

First, § 41-22-5(a)(1) states its requirement in the alternative. The notice must include "a statement of either the terms or substance of the intended action or a description of the subjects and issues involved." The

Board described the subjects and issues involved, which are the offices of the Board and the responsibilities attached to them, and that description is an accurate account of what Rule 680-X-1-.06 does.
Second, and independently, the Board filed the complete text of the proposed Rule with the Legislative Services Agency, Legal Division, as § 41-22-5(a)(1) requires, and that full text was available to the public throughout the notice period. The public was not asked to comment on a mere description of the Rule; it was given the proposed Rule.
As to the no-economic-impact certifications, the Board reaffirms them. Rule 680-X-1-.06 does not create any new rule or regulation applicable to the licensed community; it does not change any cost borne by any licensee, applicant, or member of the public, and it does not change the price of any good or service. Subsections (6)(a) and (7)(g) direct the internal handling of revenues the Board already collects under separate legal authorities, and they neither create revenue nor increase it. The Board therefore determined, and continues to determine, that the Rule has no economic impact requiring a fiscal note under § 41-22-23(f).
V. Conclusion
Having fully considered the written comment submitted on September 15, 2026, the Board sustains the consideration addressed in Part III and has amended the Rule accordingly. The Board overrules the considerations addressed in Part IV for the reasons stated in that section. The Board adopts Rule 680-X-1-.06 as amended.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLIV, ISSUE NO. 10, AAM, DATED FRIDAY, JULY 31, 2026.

STATUTORY RULEMAKING AUTHORITY: 34-23-90, 34-23-91, 34-23-92

(Date Filed)
(For LRS Use Only)

Jon M Linna

Jon Linna

Certifying Officer or his or her Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

680-X-1-.06 Officers of the Board.

(1) Election of Officers. As prescribed in Section 34-23-90(e)(3), Code of Alabama 1975, the Board shall elect a President, a Vice-President, and a Treasurer at its last regular meeting held in each calendar year. The officers so elected shall take office on the following January 1 and shall serve for a term of one year, and thereafter until their successors are duly elected. No member shall serve more than two years in the same office during any five-year term as a member of the Board. No member shall hold a position as an officer who is not a pharmacist member of the Board.

(2) Vacancies in Office; Succession.

(a) If the office of President becomes vacant, the Vice-President shall ~~assume~~have all powers, and shall perform all duties, associated with the office of President for the remainder of the unexpired term.

(b) If the office of Vice-President or Treasurer becomes vacant, the ~~President shall appoint~~Board, at its next meeting, shall elect a Board member to fill the vacancy for the remainder of the unexpired term~~, subject to ratification by a majority vote of the Board at its next regular meeting~~.

(3) Removal of Officers. The President, Vice-President, or Treasurer may be removed from his or her respective position as an officer only by a motion duly made and seconded, and upon the affirmative votes of at least seven members of the Board.

(4) Duties of the President. The President shall:

(a) Preside at meetings of the Board;

(b) Sign official documents of the Board;

(c) Countersign, together with the Executive Secretary, all vouchers authorizing disbursements from Board funds, as prescribed by Section 34-23-91(d), Code of Alabama 1975;

(d) Call special meetings of the Board as provided in these Rules; and

(e) Perform such other duties as are prescribed by law or assigned by the Board.

(5) Duties of the Vice-President. In the absence or inability of the President, the Vice-President shall perform all duties and exercise all authorities of the President. The Vice-President

shall assume such other duties as the President may assign or as the Board may prescribe.

(6) Duties of the Treasurer. The Treasurer shall:

(a) Keep and maintain custody of all funds of the Board, as provided in Section 34-23-91(d), Code of Alabama 1975;

(b) Furnish bond in an amount fixed by the Board, conditioned upon the faithful performance and discharge of official duties, as required by Section 34-23-91(a), Code of Alabama 1975; and

(c) Perform such other duties as prescribed by law or assigned by the Board.

(7) Executive Secretary as Executive Officer. The Executive Secretary shall serve as the executive officer of the Board, as prescribed in Ala. Code §§ 34-23-90(e)(4), -91(a). The Executive Secretary shall be appointed by the Board and shall serve at the pleasure of the Board. The Board shall fix the salary of the Executive Secretary. In addition to the duties prescribed in Section 34-23-91(a), the Executive Secretary shall:

(a) Direct, manage, and supervise, as directed by the Board, the regular daily activities and operations of the Board;

(b) Hire, supervise, direct, and discharge the staff of the Board;

(c) Implement the lawful directives of the Board;

(d) Attend the meetings of the Board, except when attendance is prevented by reasonable necessity;

(e) Maintain the official books and records of the Board;

(f) Attend to the correspondence of the Board;

(g) Receive and record all fees, assessments, monetary penalties, and other revenues collected under authority of the Pharmacy Practice Act, and remit such moneys to the custody of the Treasurer;

(h) Countersign, together with the President, all vouchers authorizing disbursements from Board funds, as required by Section 34-23-91(d), Code of Alabama 1975;

(i) Furnish bond in an amount fixed by the Board, conditioned upon the faithful performance and discharge of official

duties, as required by Section 34-23-91(a), Code of Alabama 1975; and

(j) Perform such other duties as the Board may from time to time require.

Author: Alabama State Board of Pharmacy
Statutory Authority: Code of Ala. 1975, §§34-23-90, 34-23-91, 34-23-92
History: New Rule: Published ———November 30, 2026; effective ———January 14, 2027.