

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Board of Dental Examiners of Alabama
Rule No.: 270-X-2.18
Rule Title: The Practice Of Dentistry Across State Lines
_____ 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 Besant

Date: 12/6/11

(DATE FILED)
(STAMP)

APA-2
11/96

Board of Dental Examiners of Alabama

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Dental Examiners of Alabama

RULE NO. & TITLE: 270-X-2.18 The Practice Of Dentistry Across State Lines.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to correctly site statutory authority.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:30 p.m. on Friday, February 3, 2012. Comments should be directed to Sonya Lankford, Financial Secretary, at 5346 Stadium Trace Pky., Ste. 112 Hoover, AL 35244 or via electronic mail at BDEAL@dentalboard.org or via telephone at 205-985-7267.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, February 3, 2012

CONTACT PERSON AT AGENCY:

Ms. Sonya Lankford
Financial Secretary
5346 Stadium Trace Pky., Ste. 112
Hoover, AL 35244
(205) 985-7267



Billington M. Garrett, *Counsel*
Board of Dental Examiners of Alabama

Board of Dental Examiners of Alabama

NOTICE OF INTENDED ACTION

RULE NUMBER: 270-X-2.18

TITLE OF RULE: The Practice Of Dentistry Across State Lines.

(1) Definitions: The following definitions shall apply to these rules.

(a) Practice Of Dentistry Across State Lines. The practice of dentistry across state lines means the practice of dentistry as defined in ~~Code of Ala. 1975, Section 34-9-6~~ Code of Alabama (1975), § 34-9-6, as it applies to:

1. The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient located within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his or her agent; or

2. The rendering of treatment to a patient located within the state by a dentist located outside this state as a result of transmission of individual patient data by electronic or other means from this state to such dentist or his or her agent.

3. This definition is not intended to include an informal consultation between a licensed dentist located in this state and a dentist located outside this state provided that the consultation is conducted without compensation to or the expectation of compensation to either dentist and does not result in the formal rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient by the dentist located outside this state.

(b) Dental Emergency. A dental emergency is a condition or circumstance in which a patient is experiencing acute oral trauma, severe pain, bleeding or infection of dental of dental hard or soft tissue, requiring, in the best clinical judgment of the attending dentist based on the facts before him or her, immediate treatment. Conditions qualifying as dental emergencies include periapical inflammation, periapical infection, periapical abscess, acute perioral swelling, post extraction alvcolitis, post extraction bleeding, fractured or abscessed teeth, fractures of the jaw, and dislocated mandible.

(c) Irregular Or Infrequent. The irregular or infrequent practice of dentistry across state lines is deemed to occur if such practice occurs less that ten (10) times in a calendar year or involves fewer than ten (10) patients in a calendar year or composes less than one percent (1%) of the dentist's diagnostic or therapeutic practice.

(2) License Requirement. To engage in the practice of dentistry across state lines in the State of Alabama, a person shall hold a current special purpose license to practice dentistry across state lines issued in accordance with the provisions of ~~Code of Ala. 1975, Section 3-9-10~~ Code of Alabama (1975), § 34-9-10 and this Rule or a person shall hold a full, unrestricted, and current license issued under ~~Code of Ala. 1975, Section 34-9-10~~ Code of Alabama (1975), § 34-9-10 and the Rules of the Board. Exemptions to this licensing requirement are as follows:

(a) A dentist who engages in the practice of dentistry across state lines in a dental emergency, as defined in this Rule and as set forth in ~~Code of Ala. 1975, Section 34-9-7~~ Code of Alabama (1975), § 34-9-7.

(b) A dentist who engages in the practice of dentistry across state lines on an irregular or infrequent basis, as defined in this Rule and as set forth in ~~Code of Ala. 1975, Section 34-9-7~~ Code of Alabama (1975), § 34-9-7.

(3) Qualifications For A Special Purpose License. An applicant shall be eligible for issuance of a certificate or qualification to practice dentistry across state lines if all of the following requirements are met:

(a) The applicant holds a full and unrestricted license to practice dentistry in any state of the United States or territories, other than this state, in which such individual is licensed.

(b) The applicant has not had any previous disciplinary action or other action taken against the applicant by any state or licensing jurisdiction, provided, however, that in the event of previous disciplinary or other action taken against the applicant, the Board may issue a certificate of qualification. If it finds that the previous disciplinary action or other action does not indicate that the dentist is a potential threat to the public.

(c) The applicant completes the submits an application form for a certificate of qualifications for a special purpose license on a form provided and approved by the Board in an amount established by the Board.

(d) Any special purpose license issued by the Board to practice dentistry across state lines limits the license solely to the practice of dentistry across state lines. The special purpose license shall be valid for a period of three years, shall expire on a renewal date established by the Board in the third calendar year after its issuance, and may be renewed upon receipt of a renewal fee as established by the Board. Failure to renew a license according to the renewal schedule established by the Board shall result in the automatic revocation of the special purpose license to practice dentistry across state lines. An applicant may reapply following automatic revocation for failure to renew. The application shall meet the qualifications of Code of Ala. 1975, Section 34-9-10 Code of Alabama (1975), § 34-9-10 in order to be eligible for renewal of the license.

(e) A special purpose license to practice dentistry across state lines shall only be issued to an applicant whose principal practice location and license to practice are located in a state or territory of the United States whose laws permit or allow for the issuance of a special purpose license to practice dentistry across state lines of similar license to a dentist whose principal practice location and license are located in another state. It is the stated intent that dentist who hold a full and current license in the State of Alabama be afforded the opportunity to obtain, on a reciprocal basis, a license to practice dentistry across state lines in any other state or territory of the United States as a precondition to the issuance of a special purpose license as authorized by this act to a dentist licensed in the other state or territory. The Board shall determine which states or territories have reciprocal license requirements meeting the qualification of this section.

(4) Effect Of Special Purpose License.

(a) The issuance by the Board of a special purpose license to practice dentistry across state lines subjects the licensee to the jurisdiction of the Board in all matters set forth in Code of Ala. 1975, Section 34-9-1 Code of Alabama (1975), § 34-9-1 et seq., and the Rules of the Board, including all matters related to discipline.

(b) It shall be the affirmative duty of every licensee to report to the Board of Dental Examiners in writing within fifteen (15) days of the initiation of any disciplinary action against the license to practice dentistry of the licensee by any state or territory in which the licensee in licensed.

(c) By accepting a special purpose license, the licensee agrees to produce patient medical records or other materials as requested by the Board and to appear before the Board or any of its committees following receipt of a written notice issued by the Board or its authorized representative. The failure of a special purpose licensee to report, produce records, or appear as set forth above shall subject the licensee to the disciplinary penalties as set forth in section 3495.

(d) A special purpose license to practice dentistry across state lines is subject to each of the grounds for disciplinary action as provided in Code of Ala. 1975, Section 34-9-18 Code of Alabama (1975), § 34-9-10, in accordance with the procedures set out in that section and the Alabama Administrative Procedures Act, Code of Ala. 1975, Section 41-2-21 Code of Alabama (1975), § 41-2-21 et seq.

APA-2
11/96

(e) The holder of a special purpose license shall comply with all laws, rules, and regulations governing the maintenance of patient medical records, including patient confidentiality requirements, regardless of the state where the medical records of any patient within this state are maintained.

(5) Annual Renewal For Fees And Licensing. The licensee holding a special purpose license must submit a completed renewal form prescribed by the Board on or before October 1 st of the third year of the license. The licensee shall accompany such renewal form with a renewal fee established by the Board. These actions shall result in the licensee's receipt of a current annual registration certificate authorizing him or her to continue the practice of dentistry under a special purpose license. Failure to secure the annual registration certificate by the 1 st of January of the next year will result in automatic revocation of the special purpose license to practice dentistry across state lines.

Statutory Authority ~~Code of Ala. 1975~~, Code of Alabama (1975), §§ 34-9-1, 34-9-2, 34-9-7, 34-9-10, 34-9-43.

Original Rule Filed: November 15, 2001, Amended: Filed November ____, 2011