

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-5.05
Rule Title: Disciplinary Hearings For Dentists And Dental Hygienists
_____ 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 *B. Bennett*

Date: 12/6/11

(DATE FILED)
(STAMP)

Board of Dental Examiners of Alabama

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Dental Examiners of Alabama

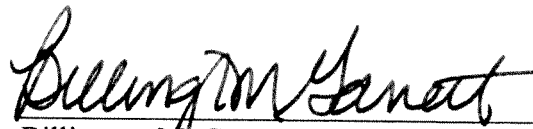
RULE NO. & TITLE: 270-X-5.05 Disciplinary Hearings For Dentists And Dental Hygienists.
INTENDED ACTION: Amend

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

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-5.05

TITLE OF RULE: Disciplinary Hearings For Dentists And Dental Hygienists.

(1) Conduct of Hearing.

(a) Hearing Examiner. The Board may in its discretion appoint some person to act as hearing examiner at disciplinary hearings. In the event a hearing examiner is appointed, he/she shall preside at the hearing and shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

(b) The procedure and format of a hearing shall be the same as that utilized in ~~nonjury~~ non-jury civil cases in the circuit courts of this state. ~~+~~ Additionally, the Board shall be allowed the right to examine any witnesses called by either party.

(c) Order. The Board shall issue an order within thirty (30) days of the date of the final hearing, which shall include findings of fact, official notice taken, and conclusions of law, separately stated. The final order shall either be personally delivered or mailed by certified mail, return receipt requested, to each party or to ~~his or her~~ his/her attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with ~~Code of Ala. 1975~~, Code of Alabama (1975), §41-22-13.

(3) Emergencies. The Board may in an emergency situation, when danger to the public health, safety and welfare requires, suspend the license of a ~~dentist or dental hygienist~~ dentist/dental hygienist without a hearing or with an abbreviated hearing in accordance with ~~Code of Ala. 1975~~, Code of Alabama (1975), §41-22-19(d).

(4) Other. The hearing shall otherwise be conducted in compliance with the provisions of the Alabama Administrative Procedure Act.

(5) Effective Date. Section 1(a) through 1(b) October 1, 1982. Section 1(c), (2), (3) and (4) – October 1, 1983.

Statutory Authority ~~Code of Ala. 1975~~, Code of Alabama (1975), §§34-9-2, 34-9-18, 34-9-24, 34-9-43, 41-22-12, 41-22-13, 41-22-16.

Original Rule Filed: September 28, 1982, Amended: Filed November ____, 2011