

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Board of Dental Examiners of Alabama
Rule No.: 270-X-5.10
Rule Title: Definition of Negligence/Gross Negligence
_____ 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 *By 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

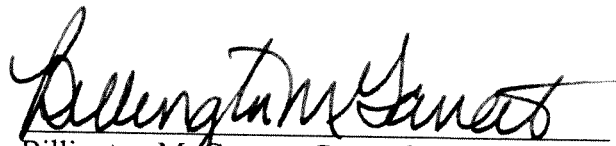
RULE NO. & TITLE: 270-X-5.10 Definition Of Negligence/Gross Negligence.
INTENDED ACTION: Amend

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-5.10

TITLE OF RULE: Definition Of Negligence/Gross Negligence.

(1) Negligence shall mean the failure to do that which a reasonably prudent dentist and/or dental hygienist (practitioner) would have done under the same or similar circumstances, or the doing of that which a reasonably prudent practitioner would not have done under the same or similar circumstances.

(2) Gross negligence is the conscious doing of an act or the omission of some duty to act with a conscious disregard of known conditions of danger or with careless and reckless indifference to the consequences of such act or omission. For the purpose of this rule, the existence of negligence or gross negligence may be established without proof of actual injury or harm to the patient, provided that the act or omission complained of created a substantial risk of harm to the health and well being of the patient which risk was known or should have been known to a reasonably prudent practitioner and which was not justified by the expected benefits to the patient from the act or admission.

Statutory Authority ~~Code of Ala. 1975, Code of Alabama (1975), §§34-9-18(a)(6)~~ §34-9-18(a)(6).
Original Rule Filed: July 24, 2009, Amended: Filed November ____, 2011