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07/04

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. N/A Department or Agency Board of Dental Examiners of Alabama  
Rule No: 270-X-5.09  
Rule Title: Non-Disciplinary Administrative Penalties  
           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

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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 412223, Code of Alabama 1975.

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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 

Date 2/4/14

(DATE FILED)  
(STAMP)

## 270-X-5.09 Non-Disciplinary Administrative Penalties.

Any ~~dentist/dental hygienist~~ licensee who is found to be in violation of the following requirements of the Alabama Dental Practice Act shall have imposed a non-disciplinary administrative penalty in the amount set forth below:

- (1) As to dentists only, failing to renew their DEA registration within one (1) year of the expiration thereof.
- (2) As to dentists only, any practice owner who allows a ~~dentist/dental hygienist~~ licensee to practice up to thirty (30) days without an ~~current~~ annual registration permit.
- (3) As to dentists only, by failing to comply with the provisions of Code of Alabama (1975), § 34-9-15.1.
- (4) Failing to timely renew any license or permit required pursuant to the Alabama Dental Practice Act and performing activities which require the applicable license or permit for up to thirty (30) days during the time the same was expired.
- (5) Failing to comply with the provisions of Board Rule 270-X-4.04. In addition to the applicable penalty, the licensee shall be required to make up the number of deficient hours by December thirty-first (31<sup>st</sup>) of the following renewal period.
- (6) The penalty for a violation by dentists shall be up to five hundred dollars and 00/100 (\$500.00).
- (7) The penalty for a violation by licensed dental auxiliary ~~dental hygienists~~ shall be up to two hundred fifty dollars and 00/100 (\$250.00).
- (8) Failure to pay the penalty within the time prescribed by the Board, unless otherwise notified, will result in disciplinary action per 34-9-18(a).
- (9) A ~~dentist/dental hygienist~~ licensee shall not qualify for the non-disciplinary administrative penalty referenced above for more than ~~two (2)~~ one (1) violations occurring within five (5) years of any prior application of this rule.

Statutory Authority Code of Alabama (1975), §§ 34-9-18(17), Act 2009-18.

Original Rule Filed: July 24, 2009, Amended Filed December 7, 2011, Adopted February 3, 2012

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07/04

**Board of Dental Examiners of Alabama**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Board of Dental Examiners of Alabama

RULE NO. & TITLE: 270-X-5.09 Non-Disciplinary Administrative Penalties  
INTENDED ACTION: Amendment

SUBSTANCE OF PROPOSED ACTION: To amend the rule to apply to all dental licensees and to limit the number of times a licensee may qualify for non-disciplinary penalties to a single occurrence during any five (5) year period.

TIME, PLACE, MANNER OF PRESENTING VIEWS:  
A Public Hearing will be convened at 6:00 p.m. on Thursday, April 10, 2014.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:  
Any written comments must be received by Wednesday, April 9, 2014. Comments may be sent via mail or email at the addresses below.

CONTACT PERSON AT AGENCY: Ms. Susan F. Wilhelm  
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Susan Franklin Wilhelm  
Board of Dental Examiners of Alabama