

APA1
07/04

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency Board of Dental Examiners of Alabama
Rule No. Rule 270-X-5.05
Rule Title: Disciplinary Hearings for Dentists and Dental Hygienists
_____ New 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

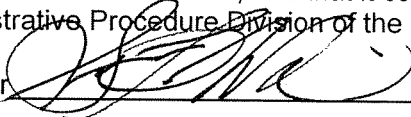
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? _____ Yes

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 412223, 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 

Date 6/14/12

(DATE FILED)
(STAMP)

APA2
07/04

Board of Dental Examiners of Alabama

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Dental Examiners of Alabama

RULE NO. & TITLE: Rule 270-X-5.05
Disciplinary Hearings for Dentists and Dental Hygienists
INTENDED ACTION: Amend Rule

SUBSTANCE OF PROPOSED ACTION:

The Board proposes to amend the rule to allow the testimony of expert witnesses and to allow the Board to rely upon on their own dental judgment in the resolution of dental issues.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4.30 p.m. on Friday, September 14, 2012. Comments should be directed to Sonya Lankford, Financial Secretary at 5346 Stadium Trace Parkway, Suite 112, Hoover, Alabama 35244 or via telephone at (205) 985-7267 or via electronic mail at BDEAL@dentalboard.org.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Friday, September 14, 2012

CONTACT PERSON AT AGENCY: Ms. Sonya Lankford
Financial Secretary
5347 Stadium Trace Parkway, Suite 112
Hoover, Alabama 35244
(205) 985-7267



Susan Franklin Wilhelm, *Counsel*
Board of Dental Examiners of Alabama

Board of Dental Examiners of Alabama

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 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/her attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with Code of Alabama (1975), §41-22-13. Further, in arriving at a determination upon dental issues in contested cases, the Board may consider the testimony of expert witnesses; however, the Board shall not be required to hear said expert testimony and may exercise its independent dental judgment in the resolution of dental issues.

(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/dental hygienist without a hearing or with an abbreviated hearing in accordance with 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 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 December 7, 2011, Adopted February 3, 2012