

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama Private Investigation Board

Rule No.: 741-X-5

Rule Title: **Professional Standards of Practice**

X 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 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 Brandy L. Isenhour
Brandy L. Isenhour, Operations Manager

Date: November 18, 2013

(DATE FILED)
(STAMP)

Alabama Private Investigation Board

NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama Private Investigation Board

RULE NO. & TITLE:

741-X-5, Professional Standards of Practice

INTENDED ACTION:

To establish Rules & Regulations

SUBSTANCE OF PROPOSED ACTION:

The Alabama Private Investigation Board proposes to establish an Administrative Code or Rules and regulations under which to operate. Specifically, these are to establish initial Rules and Regulations.

TIME, PLACE, MANNER OF PRESENTING VIEWS:


Written comments, views, or arguments will be received by the Alabama Private Investigation Board thru 9:00 am. on December 31, 2013. Comments should be directed to Paula McCaleb, Executive Director, at P.O. Box 241206, Montgomery, AL 36124, or via fax at 334-274-0684.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

December 31, 2013

CONTACT PERSON AT AGENCY:

Paula McCaleb, Executive Director
334.215.0693



Brandy L. Isenhour, Operations Manager

CHAPTER 741-X-5
Professional Standards of Practice

- (1) The licensee shall at all times recognize the primary obligation to protect the health, safety and welfare of the public in the performance of the licensee's professional duties.
- (2) The licensee shall perform services only in areas of his/her competence. The following acts or commissions, among others, may be deemed to be incompetence and be cause for denial, suspension or revocation of a private investigator's license:
 - (a) Malpractice – includes but is not limited to recklessness, or excessive errors or omissions in the licensee's professional practice.
 - (b) Disability – includes but is not limited to mental or physical disability or addiction to alcohol or drugs as to endanger health, safety and interest of the public by impairing skill and care in providing professional services.
- (3) In providing services, the licensee shall take into account all applicable laws and regulations. The licensee shall not knowingly provide services resulting in the violation of such laws and regulations.
- (4) The licensee shall be completely objective and truthful in all professional reports, statements, or testimony. He/she shall include all relevant and pertinent information in such reports, statements, or testimony.
- (5) The licensee, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his/her testimony.
- (6) Conflicts of Interest:
 - (a) The licensee shall not accept compensation (financial or otherwise) from more than one party for services on or relating to the same investigation, set of circumstances, court case, or issues unless all interested parties consent in writing after full disclosure by the licensee.
 - (b) The licensee shall avoid all known conflicts of interest with his/her employer or client, and shall promptly inform his/her employer or client of any business association, interest, or circumstance which could influence his/her judgment or the quality of his/her services. When such a conflict is unavoidable, the licensee shall forthwith disclose the circumstances to his/her employer or client.
 - (c) The licensee shall take reasonable steps to ascertain the existence of potential conflicts of interests among his/her employers and/or clients. A conflict exists when a private investigator, because of some personal interest, finds it difficult to devote himself/herself with loyalty and singleness of purpose to the best interest of his/her client or employer.
 - (d) No licensee shall contact or cause to be contacted any individual under investigation for the purpose of revealing confidential information to that individual. Any such contact with a subject being investigated, whether intentional or unintentional, shall be made a part of the investigative file of such case.
- (7) Misconduct:
 - (a) The licensee shall not knowingly associate with, or permit the use of his/her name or firm name in business venture by any persona or firm which he/she knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
 - (b) The licensee shall not furnish any services in such a manner as to enable unlicensed persons to evade the licensure requirements of the Alabama Private Investigation Regulatory Act.
 - (c) The licensee shall not represent, identify, or suggest to anyone that they are associated with any law enforcement agency.
 - (d) The licensee shall not bill a client for services or expenses, which have not been provided or incurred. A complete and comprehensive itemized statement of services and expenses must be provided to the client upon request.

- (e) Misrepresentation of qualifications and identity.
The licensee shall not falsify or permit misrepresentation of his or her academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of associates, joint ventures, or his or her past accomplishments with the intent and purpose of enhancing his or her qualifications.
- (f) A licensee may be deemed by the Board to be guilty of misconduct in his/her professional practice if:
 - (i) He/she is convicted in a court of competent jurisdiction of a felony; or misdemeanor, which the Board finds reflects unfavorably on the licensee's fitness for licensure;
 - (ii) His/her license or certificate of registration to practice private investigations in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings.
- (8) Confidential Client Information:
 - (a) A licensee shall not disclose any confidential client information without the specific consent of the client.
 - (b) The rule shall not be construed to:
 - (i) Affect in any way the licensee's obligation to comply with a validly issued and enforceable subpoena or summons.
 - (ii) Prohibit review of a licensee's professional practice by the Alabama Private Investigation Board.
 - (iii) Prohibit a licensee from utilizing any such relevant information in the defense of a claim asserted against a licensee.

Author: The Alabama Private Investigation Board
Statutory Authority: Act #2013-306, SB 172 of the 2013 Regular Session
Date: January 7, 2014