

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 270
Department or Agency: Board of Dental Examiners of Alabama
Rule No.: 270-X-5-.09
Rule Title: Non-Disciplinary Administrative Penalties
Intended Action: Amend

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

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

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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 Services Agency.

Signature of certifying officer

W. Blake Strickland
W. Blake Strickland

Date

Monday, February 12, 2024

REC'D & FILED
FEB 12, 2024
LEGISLATIVE SVC AGENCY

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: Amend

SUBSTANCE OF PROPOSED ACTION:

The Board proposes to amend its existing rule regarding non-disciplinary fines to clarify existing language. This rulemaking is permissible under Section 2 of E.O. 735, because the amendment does not impose any new regulatory burdens on the public.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

All interested persons may submit data, views, or arguments concerning the proposed rule in writing to: W. Blake Strickland, Executive Director, Board of Dental Examiners of Alabama, 2229 Rocky Ridge Road, Birmingham, Alabama 35216, by mail or in person between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, until and including April 4, 2024. Persons wishing to submit data, views, or comments should contact W. Blake Strickland by e-mail (blake@dentalboard.org) during the comment period. Interested persons may also present comments at a public meeting/hearing to be held on April 5, 2024. Copies of proposed rules may be obtained at the Board's web site, www.dentalboard.org.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, April 4, 2024

CONTACT PERSON AT AGENCY:

W. Blake Strickland, Executive Director
Board of Dental Examiners of Alabama
2229 Rocky Ridge Road
Birmingham, AL 35216

W. Blake Strickland

W. Blake Strickland

(Signature of officer authorized to promulgate and adopt rules or his or her deputy)

270-X-5-.09

Non-Disciplinary Administrative Penalties.

~~(1) Except as set forth in paragraph five (5), any 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 as set forth below.~~ In the absence of specific aggravating factors, the Board shall assess a non-disciplinary administrative penalty for the following violations:

~~(a) As to dentists only, failing to renew their DEA registration within one (1) year of the expiration thereof.~~

~~(b) As to dentists only, any practice owner who allows a licensee to practice up to one hundred eighty (180) days without a current annual registration permit.~~ (a) As to dentists only, any practice owner who allows a licensee in his or her employment to practice for no more than thirty (30) days without a current annual registration.

~~(c) As to dentists only, by failing to comply with the provisions of (b).~~ (b) As to dentists only, by failing to comply with the provisions of Code of Ala. 1975, §34-9-15.1 (Patient Records).

~~(d)~~ (c) 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 up to one hundred eighty (180) for no more than thirty (30) days during the time the same was expired.

~~(e)~~ (d) Failing to comply with the provisions of Board Rule 270-X-4.04 (Mandatory Continuing Education For Dentists And Dental Hygienists). In addition to the applicable penalty, the licensee shall be required to make up the number of deficient hours by December thirty first (31st) of the following renewal period, but only if the licensee pays the applicable penalty and cures the violation by earning all of the deficient hours by the December 31 immediately following the continuing education cycle in which the violation occurred.

~~(f) As to dentists only, by~~ (e) As to dentists only, failing to comply with the provisions of Board Rule 270-X-2-.20 (Reporting Of Adverse Occurrences).

~~(g) As to dentists only, by failing to comply with the provisions of Board Rule 270-X-2-.22 (Patient Records).~~

(2) The non-disciplinary administrative penalty shall be:

~~(a) The penalty for a violation by dentists shall be up to five hundred dollars and 00/100 (\$500.00).~~

~~(b) The penalty for a violation by licensed dental auxiliary shall be up to two hundred fifty dollars and 00/100 (\$250.00).~~

(3) ~~Failure to pay the non-disciplinary administrative penalty within the time prescribed by the Board, unless otherwise notified, will result in disciplinary action.~~ If any licensee,

having been assessed a non-disciplinary administrative penalty pursuant to this rule, fails to pay the assessed amount within thirty (30) days of notice thereof or by such other deadline as prescribed by the Board, the Board will set aside the non-disciplinary administrative penalty and initiate disciplinary action through formal contested case proceedings.

(4) A licensee shall not qualify for ~~the non-disciplinary administrative penalty referenced above for more than one (1) violation occurring within five (5) years of any prior application of this rule~~a non-disciplinary administrative penalty more than once in any five-year period.

~~(5) Notwithstanding the provisions of this rule, the Board may take into account a licensee who self-reports any of the violations referenced above and said self-reporting may constitute mitigating circumstances such as to allow the imposition of a non-disciplinary administrative penalty.~~

Author: Board of Dental Examiners of Alabama

Statutory Authority: Code of Ala. 1975, §§34-9-18~~(17)~~(16), Act 2009-18.

History: New Rule: Filed July 24, 2009; effective August 28, 2009. **Amended:** Filed February 22, 2012; effective March 28, 2012. **Amended:** Filed May 7, 2014; effective June 11, 2014.

Amended: Filed July 14, 2015; effective August 18, 2015.

Amended: Filed December 13, 2018; effective January 27, 2019.

Amended: Published 2024; effective 2024.