

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 270
Department or Agency: Board of Dental Examiners of Alabama
Rule No.: 270-X-2-.25
Rule Title: Administration of Botulinum Toxin and Similar Treatments by Dentists
Intended Action: New

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

Thursday, July 18, 2024

REC'D & FILED
JUL 18, 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-2-.25 Administration of Botulinum Toxin and Similar Treatments by Dentists

INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION:

The Board proposes a new rule to allow for the safe use of Botulinum Toxin and similar treatments by dentists for treatment of the general public as provided in state law. This notice supersedes the notice of similar rule making published in the May 31, 2024 Alabama Administrative Monthly.

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, AL 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 September 04, 2024. Persons wishing to submit data, views, or comments should contact W. Blake Strickland by email (blake@dentalboard.org) during the comment period. Interested persons may also present comments as a public meeting/hearing to be held on September 13, 2024. Copies of proposed rules can be located on the Board's website at www.dentalboard.org.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, September 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)

Administration of Botulinum Toxin and Similar Treatments by Dentists.

(1) General. This Rule defines and regulates the scope of dentistry as applied to the administration of botulinum toxin, dermal fillers, and similar agents by dentists in Alabama for therapeutic and/or esthetic purposes. This Rule displaces and supersedes all previous formal or informal guidance, or opinions expressed by the Board on the subject matter covered by this Rule, including but not limited to informal opinions issued by the Board in the absence of public notice and comment procedures on February 10, 2023, January 13, 2023, January 13, 2022, December 2, 2021, February 13-14, 2020, and July 2010.

(2) Definitions. As used in this Rule:

(a) "Human mouth, teeth, gums, jaws, and adjacent structures" includes the oral cavity, teeth, gingiva, cheeks, jaws, temporomandibular joint, lips, head, and neck. In the case of covered therapeutic procedures only, "human mouth, teeth, gums, jaws, and adjacent structures" also includes the points of origin of muscle and fascia which insert into the head and neck.

(b) "Covered esthetic procedure" means the administration of botulinum toxins, any neuromodulator derived from *Clostridium botulinum*, dermal fillers (including but not limited to collagen and any resorbable substance injected subcutaneously or intracutaneously), hyaluronic acid, platelet-rich plasma, platelet-rich fibrin, calcium hydroxylapatite (CaHA), poly-L-lactic acid, polymethylmethacrylate (PMMA) fillers, and similar medicaments, agents, and/or procedures, the principal purpose of which is to reduce the appearance of lines, wrinkles, or grooves in the skin.

(c) "Covered therapeutic procedures" means any therapeutic use of the agents referenced in subsection (2)(b), including but not limited to the treatment of TMJ disorder, dysfunction, or syndrome and orofacial pain.

(d) "Medical facility" means a clinical setting properly equipped for the performance of dental or medical procedures and where universal infection control precautions can be maintained, including a dental office, medical office, hospital, nursing home, outpatient surgery center, or similar setting, but excluding mobile and portable dental units.

(3) Requirements for Administration of Covered Esthetic or Therapeutic Procedures by Dentists. Within a medical facility, a dentist may administer covered esthetic or therapeutic procedures in the human mouth, teeth, gums, jaws, and adjacent structures to treat disease, pain, deformity, deficiency, injury, or physical condition in the area of treatment, subject to the following requirements:

(a) Before administration of any covered esthetic or therapeutic procedure, the dentist shall establish a bona fide dentist-patient relationship with the patient, obtain an appropriate

medical and dental history, perform an appropriate clinical examination, and make an appropriate record of treatment.

(b) The dentist shall comply with all laws and professional standards governing the dentist-patient relationship, including but not limited to rules governing patient records, standards for infection control (e.g., universal precautions), and rules governing continuity of care and patient abandonment.

(c) The dentist shall personally perform the covered esthetic or therapeutic procedure.

(d) The dentist shall have successfully completed a board-approved training covering at least the following topics:

1. The anatomy of the head and neck;
2. Neurophysiology of the head and neck, including facial tissues, parasympathetic, sympathetic, and peripheral nervous systems, and facial architecture;
3. Patient selection, including indications and contraindications;
4. Pharmacological effects and contraindications, including potential drug interactions;
5. Safety and risk issues particular to the agents to be used, including management of adverse reactions and complications;
6. Preparation and delivery techniques;
7. Patient assessment, consultation, and informed consent; and
8. Live, hands-on training.

Author: Board of Dental Examiners of Alabama

Statutory Authority: Ala. Code 1975, §34-9-43 (10), §34-9-43.2

History: New Rule: Published _____; effective _____.