

APA-3

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE SERVICES AGENCY
OTHNI LATHRAM, DIRECTOR**

(Pursuant to Code of Alabama 1975, §41-22-6, as amended).

I certify that the attached is/are correct copy/copies of rule/s as promulgated and adopted on Friday, July 12, 2024, and filed with the agency secretary on Friday, July 12, 2024.

AGENCY NAME: Board of Dental Examiners of Alabama

INTENDED ACTION: New

RULE NO.: 270-X-5-.14

(If amended rule, give specific paragraph, subparagraphs, etc., being amended)

RULE TITLE: Rules of Ethics for Board Members, Licensees

ACTION TAKEN: State whether the rule was adopted with or without changes from the proposal due to written or oral comments:

Adopted without changes

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XLII, ISSUE NO. 8, AAM,
DATED FRIDAY, MAY 31, 2024.

STATUTORY RULEMAKING AUTHORITY: Ala. Code 1975, §34-9-43(10)

(Date Filed)
(For LRS Use Only)

REC'D & FILED
JUL 15, 2024
LEGISLATIVE SVC AGENCY

W. Blake Strickland

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Certifying Officer or his or her
Deputy

(NOTE: In accordance with §41-22-6(b), as amended, a proposed rule is required to be certified within 90 days after completion of the notice.)

270-X-5-.14 Rules of Ethics for Board Members, Licensees.

(1) **In General.** The Alabama Ethics Law, Ala. Code § 36-25-1, et seq., provides for rules of ethical conduct applicable to all public officials, public employees, lobbyists, and principals. The Dental Practice Act further provides that the Board "shall adhere to guidelines and proceedings of the State Ethics Commission as provided in Chapter 25 of Title 36," and authorizes the Board to "adopt rules for the purpose of establishing additional ethical guidelines." Ala. Code § 34-9-43(b). This Rule incorporates key principles of the Alabama Ethics Law into the Board's administrative code, and provides that the Board may initiate disciplinary action against any licensee of the Board who violates this Rule. Nothing in this Rule supersedes the authority of the Alabama Ethics Commission, Attorney General, or District Attorneys to investigate or prosecute violations of the Alabama Ethics Law.

(2) **Definitions.** The following definitions apply to the following terms as used in this Rule:

(a) Business: as defined in Ala. Code § 36-25-1(1), including nonprofit corporations and associations.

(b) Business with which the person is associated: as defined in Ala. Code § 36-25-1(2).

(c) Confidential Information: Any information declared by Ala. Admin. Code r. 270-X-1-.08(3) to be privileged, confidential, and/or nonpublic.

(d) Conflict of Interest: as defined in Ala. Code §§ 36-25-1(8) and/or 36-25-5(f).

(e) Family Member of a Public Employee: as defined in Ala. Code § 36-25-1(14). All persons employed by the Board are public employees.

(f) Family Member of a Public Official: as defined in Ala. Code § 36-25-1(15). All Board members of the Board of Dental Examiners, all persons elected or appointed to the Board who have not yet been installed as Board members, and all former Board members appointed to serve in connection with a particular matter pursuant to Ala. Code § 34-9-41, are public officials.

(g) Lobbyist: as defined in Ala. Code § 36-25-1(21).

(h) Principal: as defined in Ala. Code § 36-25-1(24).

(i) Thing of Value: as defined in Ala. Code § 36-25-1(34).

(3) **Use of Official Position for Private Gain or Advantage.**

(a) No Board member shall use his or her official position for the private gain or advantage of himself, herself, any family member, or any business with which he or she is associated.

(b) No licensee of the Board shall cause or attempt to cause any Board member to violate the preceding subsection (a).

(4) **Use or Disclosure of Confidential Information for Private Gain or Advantage.**

(a) No Board member shall use or disclose confidential information for the private gain or advantage of himself, herself, any family member, or any business with which he or she is associated.

(b) No licensee of the Board shall cause or attempt to cause any Board member to violate the preceding subsection (a).

(5) **Conflict of Interest.** Board members shall immediately recuse themselves, and shall take no action whatsoever, in connection with any matter in which they have a conflict of interest. If a Board member receives any inquiry, advocacy, request for information, request for assistance, or similar communication in connection with a matter as to which he or she has a conflict of interest, the Board member shall immediately inform the person making the communication that he or she cannot act on the communication and shall provide the person the name of another Board member or Board employee who does not have a conflict of interest.

(6) **Gifts and Things of Value.**

(a) No person shall offer or give anything, whether or not a thing of value, to any Board member, to any family member of any Board member, or to any business associated with any Board member, with the intention to influence the official actions of the Board member. No Board member shall request or accept any such gift.

(b) No licensee of the Board shall offer or give anything of value to any Board member, other than in the ordinary course of business.

(c) No lobbyist shall offer or give anything, whether or not a thing of value, to any Board member, to any family member of the Board member, or to any business associated with the Board member. No Board member shall request or accept any such gift.

(d) No lobbyist or principal shall offer or give a thing of value to any Board member, to any family member of the Board member, or to any business associated with the Board member. No Board member shall request or accept any such gift.

(7) **Statement of Economic Interests.** All Board members who are required to file the Statement of Economic Interests required by Ala. Code § 36-25-14, shall timely and accurately file such statements.

(8) **Implementation of Ala. Code § 36-25-9(a).** No person shall be employed by the Board who is associated with any business that is regulated by the Board.

(9) **Ethics Law Awareness and Training.** At the regular meeting of the Board held in November of each calendar year, the Board shall receive one hour of educational training regarding the requirements of the Ethics Law. All Board members and Board

employees are encouraged to seek out and receive additional educational training on the requirements of the Ethics Law.

(10) **Reporting; Retaliation Prohibited.**

(a) The Executive Director shall, within 10 days of becoming aware of the relevant circumstances, make a report to the Alabama Ethics Commission on any matters that come to his or her attention in his or her official capacity which constitute a violation of the Ethics Law and/or this Rule. The Executive Director shall cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the Ethics Commission.

(b) The Board, or the Executive Director, as applicable, shall not discharge, demote, transfer, or otherwise discriminate against a Board employee regarding the employee's compensation, terms, conditions, or privileges of employment based on either the employee's reporting a violation of what he or she believes in good faith to be a violation of the Ethics Law and/or this Rule, or the employee's giving truthful statements or truthful testimony concerning an alleged ethics violation, regardless of whether the employee filed the complaint.

(11) **Violations.** Any licensee of the Board who violates any provision of this Rule may, after notice and hearing, be subject to disciplinary action pursuant to Ala. Code § 34-9-18(a)(16), and, if found guilty, may be subject to any of the penalties prescribed in Ala. Code § 34-9-18(b).

Author: Board of Dental Examiners of Alabama

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

History: New Rule: Published July 31, 2024; effective September 14, 2024.