

APA-2
11/96

Board of Dental Examiners of Alabama

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Dental Examiners of Alabama

RULE NO. & TITLE: 270-X-4.01 Professional Corporations And Professional Associations.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to correctly site statutory authority and to clarify language.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:30 p.m. on Friday, February 3, 2012. Comments should be directed to Sonya Lankford, Financial Secretary, at 5346 Stadium Trace Pky., Ste. 112 Hoover, AL 35244 or via electronic mail at BDEAL@dentalboard.org or via telephone at 205-985-7267.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Friday, February 3, 2012

CONTACT PERSON AT AGENCY:

Ms. Sonya Lankford
Financial Secretary
5346 Stadium Trace Pky., Ste. 112
Hoover, AL 35244
(205) 985-7267



Billington M. Garrett, *Counsel*
Board of Dental Examiners of Alabama

Board of Dental Examiners of Alabama

NOTICE OF INTENDED ACTION

RULE NUMBER: 270-X-4.01

TITLE OF RULE: Professional Corporations And Professional Associations.

(1) Professional Corporations.

(a) This rule is promulgated pursuant to the Revised Alabama Professional Corporation Act ~~Law, Code of Ala. 1975, Code of Alabama (1975), §§10-4-80, §10A-4-1.01 et seq., (hereinafter referred to as the "act").~~ This rule shall apply to professional corporations formed after January 1, 1984, by dentists licensed to practice dentistry in the State of Alabama and all professional corporations formed prior to January 1, 1984, which are governed by the provisions of the ~~above act~~ above-referenced portion of the Code of Alabama (1975), and those professional associations formed prior to January 1, 1984, which amend their Articles of Association as provided in ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-403(b)-10A-4-5.08 (b).~~

(b) Any dentist or group thereof licensed to practice dentistry in the State of Alabama who desires to render dental professional services as a corporation in this state shall comply with the provisions of ~~the act~~ Code of Alabama (1975), § 10A-4-1.01 et seq. and this rule.

(c) The names of professional corporations shall be governed by the provisions of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-387~~ 10A-1-5.08. If the corporate name of the professional corporation utilizes the name or names of the dentist(s) who are employees of or shareholders in the professional corporation, then such corporate name shall include the designation "D.M.D." or "D.D.S." whichever is appropriate. In addition, the following requirements shall be applicable to professional corporations:

~~± (i) Practicing dentists forming or who formed a professional corporation may practice under a name other than the one(s) of the participating dentist(s) only if the following all appear following or beneath the name selected: are met:~~

~~(ii) (1) That the name so selected should not suggest a nonprofit non-profit or charitable activity or be false, fraudulent, misleading, or deceptive.~~

~~(iii) (2) That the name of the dentist(s) and the words "professional corporation" or the abbreviation "P.C.," as required by Code of Ala. 1975, Code of Alabama (1975), §10-4-387(a), §10A-1-5.08, shall be displayed with similar prominence as the name so selected.~~

(d) Every professional corporation formed after January 1, 1984, shall file with the Board of Dental Examiners of Alabama a certified copy of the Articles of Incorporation and the Certificate of Authority, a complete list of the names and addresses of the shareholders and any and all subsequent amendments to the Articles of Incorporation, changes of ownership of any shares in the professional corporation or changes in the business address of the professional corporation.

(e) All professional corporations in existence on the effective date of the act and all professional associations which are hereinafter governed by the provisions of the act shall

file a certified copy of all amendments to the Articles of Incorporation or Articles of Association with the Board of Dental Examiners of Alabama and a copy of any changes of ownership of any shares in the professional corporation or changes in the business address of the professional corporation or association.

(f) Every professional corporation or professional association governed by the provisions of the act shall file with the Board of Dental Examiners of Alabama a certified copy of any Articles of Dissolution or Articles of Merger or Consolidation with another professional corporation or association.

(g) All filings shall be within ~~30~~ thirty (30) days of the effective date of the instrument or document filed.

(h) In addition to the requirements of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-388-10A-4-3.01~~, no shares may be transferred upon the books of the professional corporation or issued by the professional corporation until there is presented to and filed with the corporation a certificate by the Board of Dental Examiners of Alabama stating that the individual to whom the transfer is to be made or the shares issued is a qualified person as defined by ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-382(5) 10A-4-1.03 (6)~~.

(i) In addition to the requirements of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-393 10A-4-3.06~~, no officers or members of the board of directors of a professional corporation who are not licensed to practice dentistry shall participate in any decision constituting the practice of dentistry.

(j) A foreign professional corporation rendering dental professional services in the State of Alabama shall, in addition to the requirements of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-397 10A-4-5.02~~, be subject to the following:

1. All shareholders of a foreign professional corporation who render dental professional services in Alabama shall be dentists licensed to practice dentistry in the State of Alabama.

(k) The Board of Dental Examiners of Alabama may propound interrogatories to any professional corporation under the provisions of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-400 10A-4-5.05~~.

(l) The Board of Dental Examiners of Alabama may request that the Attorney General initiate involuntary dissolution procedures against a professional corporation under the provisions of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-396 10A-4-5.01~~. In addition, the Board may certify to the Secretary of State the names of any foreign professional corporation which has given cause for revocation of its certificate of authority under the provisions of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-398 10A-4-5.03~~.

(m) Every professional corporation subject to the provisions of the act rendering dental professional services shall file with the Board of Dental Examiners of Alabama a copy of the annual report required by ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-399 10A-4-5.04~~. Financial or confidential information contained in the annual report may be disclosed or made public pursuant to the provisions of ~~Code of Ala. 1975, Code of Alabama (1975), §10-4-399(b) 10A-4-5.04 (b)~~.

AUTHORITY: ~~Code of Alabama (1975), §10-4-402. Professional Associations.~~

(2) Professional Associations. The following shall apply to professional associations who do not elect to become subject to the provisions of the Revised Alabama Professional Corporation Act, ~~Code of Ala. 1975, Code of Alabama (1975), §§10-4-380 § 10A-4-1.01, et seq.~~

(a) Professional associations may practice under a name other than the one(s) of the participating dentist(s) only if the following requirements are met:

1. (i) That the name of the participating dentist(s) shall appear following or beneath the name selected.

2. (ii) That the designation, "~~professional corporation~~" "Professional Association" or the abbreviation "P.A." shall appear either following or beneath the name so selected.

3. (iii) That the name so selected should not suggest a ~~nonprofit~~ non-profit or charitable activity or be false, fraudulent, misleading or deceptive.

4. (iv) That the name of the dentist(s) and the designation "professional association" or the abbreviation "P.A." shall be displayed with similar prominence as the name so selected.

Statutory Authority: ~~Code of Ala. 1975, Code of Alabama (1975), §§ 10A-1-5.08, 10A-4, et seq., 34-9-2; 34-9-19; 34-9-43; 10-10-1, et seq.~~

Original Rule Filed: July 21, 2009, Amended: Filed November ____, 2011