

APA-1  
11/96

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control \_\_\_\_\_ Department or Agency: Board of Dental Examiners of Alabama  
Rule No.: 270-X-5.03  
Rule Title: Administrative Determinations And Declaratory Rulings Of The Board  
\_\_\_\_\_ New X 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

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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.

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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 *Byhamett*

Date: 2/6/11

(DATE FILED)  
(STAMP)

**Board of Dental Examiners of Alabama**

NOTICE OF INTENDED ACTION

AGENCY NAME: Board of Dental Examiners of Alabama

RULE NO. & TITLE: 270-X-5.03 Administrative Determinations And Declaratory Rulings Of The Board.

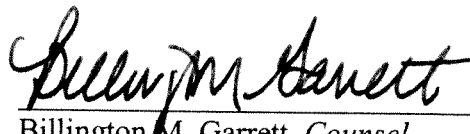
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to correct site statutory authority, to clarify language and to change the requirement of information an individual must submit in a petition for a declaratory ruling from the Board.

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](mailto: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



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

**Board of Dental Examiners of Alabama**

NOTICE OF INTENDED ACTION

RULE NUMBER: 270-X-5.03

TITLE OF RULE: Administrative Determinations And Declaratory Rulings Of The Board.

Pursuant to ~~Code of Ala. 1975~~, Code of Alabama (1975), §41-22-11, any person [as defined by ~~Code of Ala. 1975~~, Code of Alabama (1975), §41-22-3(6)] who wishes to petition the Board for a declaratory ruling with respect to the validity of a Board rule or with respect to the applicability to any person, property or state of facts of any rule of the Board or statute enforceable by the Board, or with respect to the means and scope of any order of the Board, shall comply with the following:

(a) (1) All petitions shall be in writing and shall be sent to the secretary-treasurer of the Board of Dental Examiners of Alabama by registered mail with return receipt requested and shall specifically state that it is a "request for a declaratory ruling."

(b) (2) If the petition is submitted on behalf of a person who is an individual, it shall include the name, business and residence address, business and residence telephone number, ~~and the employer of the person~~. If the petition is submitted on behalf of ~~a person other than an individual of an~~ entity, it shall include the name, address and telephone number of the said ~~person~~ entity, and the name and title or position of the individual signing the request.

(c) (3) The petition shall state with particularity facts sufficient to show the ~~person~~ person/entity seeking relief is substantially affected by the rule and shall also state sufficient facts to permit the Board to make a valid determination.

(d) (4) Provided that the petition or the matters stated therein arise from an actual question or controversy, the petition shall then request that the Board do one or more of the following:

1- (a) Issue a declaratory ruling with respect to the validity of one of the Board's rules; or

2- (b) Issue a declaratory ruling with respect to the applicability to any ~~person~~, person/entity, property or state of facts of any rule of the Board or statute enforceable by the Board; or

3- (c) Issue a declaratory ruling with respect to the meaning and scope of any order of the Board.

(e) (5) At the discretion of the Board, the petition shall either be considered at a meeting of the entire Board or may be assigned to any member or members of the Board for consideration, and in either case a declaratory ruling may be issued. The failure of the Board to issue a declaratory ruling on the merits within 45 forty-five (45) days from the receipt of the request by the Board shall constitute a denial of the request as well as a denial of the merits of the request.

(f) (6) If the petition does not meet the requirements set out above, the petition shall be returned and the party shall be notified in writing of this failure and shall further be notified of their right to submit the petition again.

Statutory Authority ~~Code of Ala. 1975~~, Code of Alabama (1975), §§34-9-43, 41-22-11.

Original Rule Filed: September 28, 1982, Amended: Filed November \_\_\_\_, 2011