

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department of Agency: Board of Dental Examiners of Alabama
Rule No. 270-X- 5.10
Rule Title: DEFINITION OF GROSS NEGLIGENCE

X New ___ 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 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 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 Reference Service.

Signature of certifying officer Mary Ann Withman

Date 4/14/09

REC'D & FILED
(DATE FILED)
(STAMP)

APR 17 2009

LEGISLATIVE REF SERVICE

APA-2
11/96

**BOARD OF DENTAL EXAMINERS OF ALABAMA
NOTICE OF INTENDED ACTION**

AGENCY NAME: BOARD OF DENTAL EXAMINERS OF ALABAMA
RULE NO. AND TITLE: 270-X-5.10- DEFINITION OF GROSS NEGLIGENCE
INTENDED ACTION: To adopt the above referenced rule.

SUBSTANCE OF PROPOSED ACTION: The Alabama Dental Practice Act in Code of Alabama 1975 34-9-18(a) (6) allows the Board to impose sanctions if a dentist or dental hygienist has been found guilty of gross negligence.

This rule is being adopted to define "gross negligence".

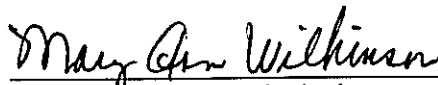
TIME, PLACE, MANNER OR PRESENTING VIEW: Interested persons may present their view in writing to the Administrative Secretary of the Board of Dental Examiners of Alabama at any time during a thirty five (35) days period following April 30, 2009 concluding on July 6, 2009, or if requested in advance, by personally appearing at a public hearing to be held beginning at 7:30 PM on July 9, 2009 at:

Board of Dental Examiners of Alabama
5346 Stadium Trace Parkway, Suite 110
Hoover, Alabama 35244

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: July 6, 2009

CONTACT PERSON AT AGENCY:

Ms. Mary Ann Wilkinson
BOARD OF DENTAL EXAMINERS OF ALABAMA
5346 Stadium Trace Parkway, Suite 112
Birmingham, Alabama 35244



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

BOARD OF DENTAL EXAMINERS OF ALABAMA

NOTICE OF INTENDED ACTION

RULE NUMBER: 270-X-5.10

TITLE OF RULE: DEFINITION OF GROSS NEGLIGENCE

270-X- 5.10 DEFINITION OF GROSS NEGLIGENCE

Negligence shall mean the failure to do that which a reasonably prudent dentist and/or dental hygienist (practitioner) would have done under the same or similar circumstances, or the doing of that which a reasonably prudent practitioner would not have done under the same or similar circumstances. Gross negligence is the conscious doing of an act or the omission of some duty to act with a conscious disregard of known conditions of danger or with careless and reckless indifference to the consequences of such act or omission. For the purpose of this rule, the existence of negligence or gross negligence may be established without proof of actual injury or harm to the patient, provided that the act or omission complained of created a substantial risk of harm to the health and well being of the patient which risk was known or should have been known to a reasonably prudent practitioner and which was not justified by the expected benefits to the patient from the act or admission.