

Amendment to Rule 270-X-5.05(1)(c) Disciplinary Hearings for Dentists and Dental Hygienists

SUBSTANCE OF PROPOSED ACTION:

The Board intends to amend the provision of this Rule requiring both the licensee and counsel to receive a copy of the Board's final order. The amendment would replace this language and allow the mailing of the final order by certified mail to counsel for a licensee. This proposed amendment would conform this Rule to the requirements of Code of Alabama (1975) § 41-22-16(d).

APA-3
11/96

**CERTIFICATION OF ADMINISTRATIVE RULES
FILED WITH THE LEGISLATIVE REFERENCE SERVICE
JERRY L. BASSETT, DIRECTOR**

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

I certify that the attached is correct copy of rule as promulgated and adopted on the 1st day of March, 2007, and file with the agency secretary on the 6th day of March, 2007.

AGENCY NAME: BOARD OF DENTAL EXAMINERS OF ALABAMA.

 X Amendment New Repeal (Mark appropriate space)

Rule No.: 270-X-5.05(1)(c)

Rule Title: **Disciplinary Hearings for Dentists and Dental Hygienists**

ACTION TAKEN: Rule 270-X-5.05 was adopted without change.

NOTICE OF INTENDED ACTION PUBLISHED IN VOLUME XXV ISSUE NO. 3 , AAM, DATED December, 2006.

Statutory Authority: Code of Alabama 1975, 34-9-2, 34-9-18, 34-9-24 and 34-9-43. Code of Alabama 1975, 41-22-12, 41-22-13 and 41-22-16.

(Date Filed)
(For LRS Use Only)

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.)

BOARD OF DENTAL EXAMINERS OF ALABAMA

NOTICE OF INTENDED ACTION

RULE NUMBER: 270-X-5.05(1)(c)

TITLE OF RULE: **Disciplinary Hearings for Dentists and Dental Hygienists.**

270-X-5.05 Disciplinary Hearings for Dentists and Dental Hygienists.

(1) Conduct of Hearing.

(a) Hearing Examiner. The Board may in its discretion, appoint some person to act as hearing examiner at disciplinary hearings. In the event a hearing examiner is appointed, he/she shall preside at the hearing and shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary.

(b) The procedure and format of a hearing shall be the same as that utilized in non-jury civil cases in the Circuit Courts of this State.

1. Additionally, the Board shall be allowed the right to examine any witnesses called by either party.

(c) Order. The Board shall issue an order within thirty (30) days of the date of the final hearing, which shall include findings of fact, official notice taken and conclusions of law, separately stated. The final order shall either be personally delivered or mailed by certified mail, return receipt requested, to each party or to his or her attorney of record.

(2) Evidence. Evidence shall be admitted in accordance with Code of Alabama 1975, 41-22-13.

(3) Emergencies. The Board may in an emergency situation, when danger to the public health, safety and welfare requires, suspend the license of a dentist or dental hygienist without a hearing or with an abbreviated hearing in accordance with Code of Alabama 1975, 41-22-19 (d).

(4) Other. The hearing shall otherwise be conducted in compliance with the provisions of the Alabama Administrative Procedure Act.

(5) Effective Date. § 1 (a) through 1(b)-Oct. 1, 1982. § 1(c), (2), (3) and (4): Oct. 1, 1983.

Author: James S. Ward

Statutory Authority: Code of Alabama 1975, 34-9-2, 34-9-18, 34-9-24 and 34-9-43. Code of Alabama 1975, 41-22-12, 41-22-13 and 41-22-16.

History : Adopted Sept. 25, 1982, Amended March 1, 2007