

**NOTICE OF INTENT TO AMEND RULE OF THE GEORGIA STATE BOARD OF
DENTISTRY
RULE 150-8-.02 FEE-SPLITTING AND NOTICE OF PUBLIC HEARING.**

TO ALL INTERESTED PERSONS AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Board of Dentistry (hereinafter "Board") proposes amendments to Georgia Board of Dentistry Rule 150-8-.02 FEE-SPLITTING (hereinafter "proposed amendments").

This notice, together with an exact copy of the rule including the proposed amendments and a synopsis of the rule including the proposed amendments, is being forwarded to all persons who have requested, in writing, that they be placed on an interested parties list. A copy of this notice, an exact copy of the rule including the proposed amendments, and a synopsis of the rule including the proposed amendments may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official State holidays, at the Department of Community Health at 2 Peachtree Street, NW., Atlanta, Georgia, 30303. These documents will also be available for review on the Georgia State Board of Dentistry's web page at <http://gbd.georgia.gov/>.

A public hearing is scheduled to begin at 10:00 AM on September 15, 2017 at the Department of Community Health at 2 Peachtree Street, NW., Atlanta, Georgia, 30303 to provide the public an opportunity to comment upon and provide input into the proposed amendments. At the public hearing, anyone may present data, make a statement, comment or offer a viewpoint or argument whether orally or in writing. Lengthy statements or statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to 5 minutes per person. Additional comments should be presented in writing. Written comments are welcome. To ensure their consideration, written comments must be received prior to September 8, 2017. Written comments should be addressed to Executive Director of the Georgia State Board of Dentistry at 2 Peachtree Street NW., Atlanta, Georgia 30303 FAX:678-717-6435. You may email your comments to tbattle@dch.ga.gov.

The proposed rule amendments will be considered by the Georgia State Board of Dentistry at its meeting scheduled to begin at 10:05 AM on September 15, 2017 at the Department of Community Health at 2 Peachtree Street, NW., Atlanta, Georgia, 30303. According to the Department of Law, State of Georgia, the Georgia State Board of Dentistry has the authority to adopt the proposed rule amendments pursuant to authority contained in O.C.G.A §§ 43-1-19, 43-1-19.1, 43-11-7 and 43-11-47.

At its meeting on July 7, 2017, the Board voted that the formulation and adoption of these amendments do not impose excessive regulatory cost on any licensee and any cost to comply with the proposed amendments cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A §§ 43-1-19, 43-1-19.1, 43-11-7 and 43-11-47. At its meeting on 7/7/2017, the Board also voted that it is not legal or feasible to meet the objectives of O.C.G.A §§ 43-1-19, 43-1-19.1, 43-11-7 and 43-11-47 to adopt or implement differing actions for businesses as listed at O.C.G.A § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of these amendments will impact every licensee in the same manner, and each licensee is independently licensed, owned and operated and dominant in the field of dentistry.

For further information, contact the Board office at 404-651-8000.

This notice is given in compliance with O.C.G.A. §50-13-4.

This 14th day of August, 2017.

Tanja D. Battle
Tanja D. Battle
Executive Director
Georgia Board of Dentistry

Posted: August 14, 2017

**SYNOPSIS OF PROPOSED AMENDMENTS OF THE
GEORGIA STATE BOARD OF DENTISTRY
RULE 150-8-.02 FEE-SPLITTING.**

Purpose of rule: The purpose of this rule is to define fee-splitting.

Main Features: The main feature of this rule is to identify actions which constitutes fee-splitting.

**DIFFERENCES OF PROPOSED AMENDMENTS OF THE
GEORGIA STATE BOARD OF DENTISTRY
RULE 150-8-.02 FEE-SPLITTING**

NOTE: Struck through text is proposed to be deleted. Underlined text is proposed to be added.

150-8-.02 Fee Splitting.

- (1) A dentist shall not give rebates ~~with a referral source~~ or split fees ~~with a referral source~~.
- (2) “Fee splitting” includes but is not limited to the following:
 - (a) Any coupons, rebates, paid referrals or other consideration provided in exchange for a referral for service on a per-patient basis provided from or to licensed dentists, excepting the purchase of a practice by one dentist actively licensed in Georgia to another dentist actively licensed in Georgia.
 - (b) Any coupons, rebates, paid referrals or other consideration provided in exchange for a referral on a per-patient basis provided to a licensed dentist from an unlicensed party based on an agreement, written or otherwise.
 - (c) The sharing of fees for professional services between licensed dentists or between licensed dentists and unlicensed third-parties, where the treating practitioner or the treating practitioner’s office shares the fees associated with treatment of a specific patient with a third-party that did not provide the treatment that generated the fee to the patient in exchange for a referral, recommendation, or coupon provided to that patient.
 - (d) The sharing of fees for professional services between a licensed dentist and any unlicensed party.
- (3) “Fee splitting” does not include:
 - (a) The payment of a commission from a dentist actively licensed in Georgia who owns a practice to any employee, associate, independent contractor or agent who is also a dentist or dental hygienist actively licensed in Georgia and working for the practice. Such exclusion applies where the dentist owns the practice through a sole proprietorship, partnership, limited liability company, or by majority ownership in a professional corporation.
 - (b) The sharing of professional fees between dentists practicing in a partnership or within the same practice group, where the remuneration is not based on the number of referrals within the practice or referrals required by the partnership agreement;
 - (c) The division of fees between dentists where a dentist actively licensed in Georgia employs another dentist actively licensed in Georgia as an agent, associate, employee, or independent contractor, if not otherwise provided in 150-8-.02(3)(a);

(d) The giving of a gift from a dentist to a patient in exchange for a referral, where the dentist provides gifts of equivalent value to all other patients for the same number of referrals or value of referrals, and such gift does not exceed one hundred (\$100) dollars in value.

(e) The payment of a fee to a former partner, associate, or employee based on a retirement plan or separation agreement;

(f) The payment of fees owed to an unlicensed party because of the unlicensed party's possession of the ownership interest of a deceased or disabled dentist in a partnership, where the interest is transferred to another licensed dentist within six months after the date of death or disability of the unlicensed party's predecessor-in-interest.

(4) Any substantiated violations of this rule for conduct committed subsequent to June 1, 2018 may subject the dentist to disciplinary action.

Authority: O.C.G.A. §§ 43-1-19, 43-1-19.1, 43-11-7 and 43-11-47.