

**NOTICE OF INTENT TO ADOPT RULE TO THE GEORGIA BOARD OF DENTISTRY RULES
CHAPTER 150-24, RULE 150-24-.04 REVIEW OF INITIAL DECISION 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 Board of Dentistry (hereinafter "Board") proposes a new Rule to Georgia Board of Dentistry Rules: Rule 150-24-.04 REVIEW OF INITIAL DECISION (hereinafter "proposed rule").

This notice, together with an exact copy of the proposed rule and a synopsis of the rule, 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 proposed rule, and a synopsis of the proposed rule 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 Board of Dentistry's web page at <http://gbd.georgia.gov/>.

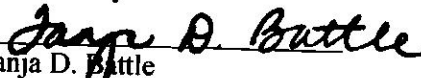
A public hearing is scheduled to begin at 12:00 PM on July 18, 2014 at the Department of Community Health at 2 Peachtree Street, NW., Atlanta, Georgia, 30303 to provide the public an opportunity to comment upon and provide input into the proposed rule. At the public hearing, anyone may present data, 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 may be received prior to July 11, 2014. Written comments should be addressed to Executive Director of the Georgia 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 will be considered by the Georgia Board of Dentistry at its meeting scheduled to begin at 12:05 PM on July 18, 2014 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 pursuant to authority contained in O.C.G.A §§ 43-1-3, 43-1-19, 43-11-2.1, 43-11-7, 43-11-47, 50-13-3, 50-13-13, 50-13-15, 50-13-17, 50-13-18, and 50-13-41.

At its meeting on March 14, 2014, the Board voted that the formulation and adoption of this rule does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A §§ 43-11-7, 43-11-9. The formulation and adoption of this rule 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 17th day of June, 2014



Tanja D. Battle
Executive Director
Georgia Board of Dentistry

Posted: June 17, 2014

**SYNOPSIS OF PROPOSED RULE OF THE GEORGIA BOARD OF DENTISTRY RULES
CHAPTER 150-24, RULE 150-24-.04 REVIEW OF INITIAL DECISION**

Purpose of Rule: The purpose of this rule is to establish the procedure for a party to seek review of an initial decision by the Administrative Law Judge.

Main Features: The main feature of this rule is to permit the responding party or the Board to seek review of the initial decision.

**PROPOSED RULE FOR THE GEORGIA BOARD OF DENTISTRY RULES
RULE 150-24-.04 REVIEW OF INITIAL DECISION**

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

150-24-.04 Review of Initial Decision

- (1) Either the responding party or the Board may seek review of the initial decision of the administrative law judge (ALJ) pursuant to O.C.G.A. §§ 50-13-17(a), 50-13-41(d). If the responding party files a timely motion for review of the initial decision of the ALJ, the responding party may include therein a statement of the reasons for seeking review and alleged errors made by the ALJ in the initial decision. If the Board files a timely order for review of the initial decision on its own motion, it may include in its order the issues to be considered by the Board at the review hearing.
- (2) Upon the filing of a timely motion by the responding party seeking review of the initial decision of the ALJ, or upon the filing of a timely order by the Board for review of an initial decision on its own motion, notice of the date and time for the review shall be served on the responding party or counsel for the responding party and counsel for the Board.
- (3) The Board may appoint a hearing officer for review, who shall preside over the review proceedings and control the conduct of the review hearing. In acting as the presiding officer, the hearing officer for review shall rule on all procedural and evidentiary questions that arise during the course of the review. At the direction of the Board, the hearing officer for review shall draft the final decision for the Board.
- (4) On review, the Board shall have all the powers it would have in making the initial decision, and in its discretion, shall have the power to take additional testimony or remand the case to the ALJ for such purpose, as provided in the Administrative Procedure Act, O.C.G.A. § 50-13-17 and in accordance with this Rule. Motions, including motions to present additional evidence, shall be filed in accordance with 150-17-.01 and 150-24-.03 and shall be ruled upon within the time period set by the Board but not to exceed thirty (30) days.

 - (a) Motions to present additional evidence or to remand the case to the ALJ for such purpose shall be granted only if the additional evidence is material, and there was good cause for failing to present such evidence before the ALJ. All motions, including motions for the presentation of additional evidence, shall be ruled on by the Board, prior to oral arguments during the review hearing.
- (5) Oral argument up to 30 minutes per side is permitted in the review hearing. Additional time for argument must be requested in writing and docketed at least fourteen (14) days before the date set for the review hearing.
- (6) Once the review hearing is concluded, the Board shall deliberate as to the final decision. Neither the hearing officer for review nor the parties nor their counsel shall be present during or

participate in the deliberations or voting on the final decision. Provided, however, that during the course of the deliberations the Board may seek or obtain legal advice of its counsel or make an inquiry on the record concerning either procedure or the merits of the case in the presence of all parties.

(a) At the conclusion of the deliberations, the vote and decision of the Board shall be announced in open session, unless the sanction imposed by the decision is made confidential by statute, in which case it shall be announced *in camera* to the responding party and counsel for the parties. The Board may take the matter under advisement and continue the deliberations until a date certain if deemed necessary due to the Board's agenda or the complexity of the issues.

Authority: O.C.G.A §§ 43-1-3, 43-1-19, 43-11-2.1, 43-11-7, 43-11-47, 50-13-3, 50-13-13, 50-13-15, 50-13-17, 50-13-18, and 50-13-41.