

NOTICE OF INTENT

Department of Health and Hospitals Board of Dentistry

General Provisions
(LAC 46:XXXIII.136)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to promulgate LAC 46:XXXIII.136.

The Louisiana State Board of Dentistry is proposing LAC 46:XXXIII.136 for initial adoption to establish rules regarding dental records, affirming the right of the patient to receive copies of his records and the right of the dentist to charge for copies to the patient in line with R.S. 40:1165.1. It also requires that the records be legible, and the x-rays be diagnostic. This solves the problem the board sometimes has when screening complaints; sometimes the records and x-rays the board receives are not legible.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Profession Chapter 1. General Provisions

§136. Dental Records

- A. Dental patients have the right to receive copies of their dental records and/or radiographs when requested in writing by the patient or his authorized representative. Patients or their authorized representative requesting copies of patient records and/or radiographs may be charged amounts set forth in R.S. 40:1165.1. The dental records and/or radiographs may be withheld pending payment of the amount set forth in R.S. 40:1165.1 if a payment request has been made by the dentist or custodian of the records within fifteen days of the request for dental records and/or radiographs.**
- B. Dental patients have the right to have copies of their dental records and/or radiographs sent to subsequent and/or concurrent treating health care providers when the request is made in writing by the patient, his authorized representative, or the subsequent/concurrent treating health care provider.**
- C. The Louisiana State Board of Dentistry (Board) has the right to receive copies of dental records and/or radiographs when requested by the Board in writing.**
- D. When Dental records and/or radiographs, of a patient are requested in writing by a patient, his authorized representative, a subsequent or concurrent treating health care provider or the Board, the records must be made available within thirty days of the request, or within twenty days of a payment request as set forth in Subsection A of this Section.**
- E. Dental records produced pursuant to this Section must be legible. If there is handwriting that is illegible in the original records, the records produced must include a typed transcript of the illegible handwriting.**
- F. Radiographs produced pursuant to this Section must be diagnostic and must be able to be read without the use of proprietary software.**
- G. The treating dentist whose treatment is reflected in the records and/or radiographs requested pursuant to this Section is responsible for complying with this Section and may be sanctioned**

by the Board if any part of this Section is violated. The treating dentist is responsible for assuring that the requirements of this Section are followed even if he has left the practice where the treatment was rendered and may be sanctioned by the Board if any part of this Section is violated.

H. If the treating dentist whose treatment is reflected in the records and/or radiographs requested pursuant to this Section has left the practice where the treatment occurred, the dentist owner(s) of the practice in possession of the records and/or radiographs is responsible, along with the treating dentist, for complying with the requirements of this Section and may be sanctioned by the Board if any part of this Section is violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(6) and (8) and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comment

Interested persons may submit written comments on this proposed promulgated rule to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, Louisiana, 70821. Written comments must be submitted to and received by the Board by 4:30 p.m. on June 10, 2025. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the Board by 4:30 p.m. on June 10, 2025.

Arthur Hickham, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLES: Chapter 1. General Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Other than the cost of rulemaking, there are no estimated implementation costs or savings for state or local government units resulting from the promulgation of the proposed rule change. The cost for the Louisiana Board of Dentistry is approximately \$500 in FY 25 for the notice and rule publication in the *Louisiana Register*.

Proposed rule changes clarify the responsibilities of dentists when responding to written requests for patient records submitted by the patient, a representative, a subsequent or concurrent healthcare provider, or the Board. It affirms that patients may be charged for copies in accordance with R.S. 40:1165.1 and that records must be provided within existing statutory timeframes. Proposed rule changes also requires that records be legible and radiographs be diagnostic and accessible without proprietary software. If original handwritten notes are illegible, a typed transcript must be included. These clarifications are intended to support the Board's review of complaints and are not anticipated to create new costs or obligations for providers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to impact the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons, small businesses or non-governmental groups due to the rule proposed for initial adoption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Arthur Hickham, Jr.
Executive Director