

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

SUBCHAPTER 16A – ORGANIZATION

21 NCAC 16A .0101 DEFINITIONS

As used in this Chapter:

- (1) "Applicant" means a person applying for any license or permit issued by the Board;
- (2) "Board" means the North Carolina State Board of Dental Examiners;
- (3) "Candidate" means a person who has applied and been accepted for examination to practice dentistry or dental hygiene in North Carolina;
- (4) "Current license" means a license that is renewed by the licensing board;
- (5) "CPR certification" means that the licensee has completed a CPR course that meets American Red Cross or American Heart Association standards for certification and that provides manikin testing on the subjects of cardio-pulmonary resuscitation. The course must also cover the use of an automatic external defibrillator, unconscious and conscious choking and rescue breathing, provided that the foregoing requirements shall not be interpreted in any way that violates the Americans with Disabilities Act. The manikin testing shall be provided by an instructor who is present with the students;
- (6) "Internship" means practice in an educational training program. Internship does not mean practice under an intern permit while holding an unrestricted general dental or dental specialty license issued by a state, U.S. territory or the District of Columbia;
- (7) "Unrestricted license" means a license that is not under suspension or inactivation, or subject to the terms of a consent order or other disciplinary action imposed by the jurisdiction that issued the license, or limited by supervision or location requirements;
- (8) Except where otherwise defined by these Rules or by statute, "supervision," "direct supervision," and "supervision and direction" means that the dentist overseeing treatment is present in the same facility or location and available during the performance of the acts that are being performed pursuant to that dentist's order, control, and approval and that the dentist must examine and evaluate the results of such acts; and
- (9) Except where otherwise defined by these Rules or by statute, "direction" or "under direction" means that the dentist ordering treatment does not have to be present in the same facility or location during the performance of the acts that are being performed pursuant to that dentist's order, control, and approval, but that dentist shall be responsible for all consequences or results arising from such acts.

History Note: Authority G.S. 90-28; 90-29(a); 90-29.3; 90-29.4; 90-29.5; 90-30; 90-48; 90-224; 90-224.1; 90-226;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1991; May 1, 1989; September 1, 1988; October 1, 1986;
Temporary Amendment Eff. January 1, 2003;
Amended Eff. May 1, 2011; January 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.

21 NCAC 16A .0102 ORGANIZATION

21 NCAC 16A .0103 FUNCTIONS

History Note: Authority G.S. 90-22 et seq.; 90-26; 90-43; 90-48; 90-221 et seq.;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. March 1, 1985;
Repealed Eff. October 1, 1986.

21 NCAC 16A .0104 LOCATION

History Note: Authority G.S. 90-26; 90-43; 90-48;
Eff. May 1, 1989;
Amended Eff. February 1, 2008; September 1, 2001; May 1, 1991;
Repealed Eff. September 1, 2013.

21 NCAC 16A .0106 PETITION FOR PREDETERMINATION

An individual who wishes to file a petition for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a dental license or dental hygiene license shall submit a petition on the forms furnished by the Board at www.ncdentalboard.org that shall include the petitioner's:

- (1) legal name;
- (2) mailing, physical, and email addresses;
- (3) social security number;
- (4) date of birth;
- (5) telephone number;
- (6) place(s) of residence for the past seven years;
- (7) employment history since the commission of the crime(s);
- (8) criminal record report prepared no more than 60 days prior to the date of petition by Castle Branch, Inc., or another reporting service designated by the Board in accordance with G.S. 93B-8.1(b6), the cost of which shall be borne by the petitioner;
- (9) copies of all documents in the court file related to any conviction reported on the petition or noted on the criminal record report, certified by the clerk of court or other judicial official;
- (10) written statement describing the circumstances surrounding the commission of the crimes;
- (11) written statement of any rehabilitation efforts, if applicable;
- (12) rehabilitative drug or alcohol treatments, if applicable;
- (13) Certificate of Relief granted pursuant to G.S. 15A-173.2, if applicable;
- (14) affidavits or other written documents, including character references, that the petitioner wishes the Board to consider in responding to the petition;
- (15) written statement certifying that the information and documentation submitted with the petition is complete and accurate to the best of the petitioner's knowledge;
- (16) fee of forty-five dollars (\$45.00) for a petition for predetermination; and
- (17) notarized signature.

History Note: Authority G.S. 90-29; 90-30; 90-41; 90-48; 90-223; 90-224; 90-229; 93B-8.1;
Eff. April 1, 2020.

21 NCAC 16A .0105 SUSPENSION OF AUTHORITY TO EXPEND FUNDS

If the Board's authority to expend funds is suspended pursuant to G.S. 93B-2(d), the Board shall continue to issue and renew licenses, registrations, and permits and to collect all fees pursuant to G.S. 90-39 and the rules of this Chapter, but all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

History Note: Authority G.S. 90-28; 90-39; 93B-2(d);
Eff. October 1, 2019.

SUBCHAPTER 16B - LICENSURE DENTISTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 16B .0101 EXAMINATION REQUIRED; EXEMPTIONS

(a) All persons desiring to practice dentistry in North Carolina shall pass Board approved written and clinical examinations, as set forth in Rule .0303 of this Subchapter before receiving a license.

(b) The examination requirement shall not apply to persons who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S. 90-21.107, licensure by endorsement pursuant to Rules .1001 and .1002 of this Subchapter, or licensure by credentials pursuant to Rule .0501 of this Subchapter.

(c) All persons practicing dentistry in North Carolina shall maintain unexpired CPR certification at all times.

History Note: Authority G.S. 90-21.107; 90-28; 90-30; 90-36; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; September 1, 2013; March 1, 2006; May 1, 1991; May 1, 1989;
January 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.

21 NCAC 16B .0102 NO RECIPROCAL ARRANGEMENT

History Note: Authority G.S. 90-28; 90-30; 90-36; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

SECTION .0200 - QUALIFICATIONS

21 NCAC 16B .0201 IN GENERAL

(a) An applicant for licensure as a dentist shall be a graduate of and have a DMD or DDS degree from a university or college accredited by the Commission on Dental Accreditation of the American Dental Association.

(b) Graduates of foreign colleges may apply for licensure after completing at least two years in a dental school accredited by the Commission on Accreditation of the American Dental Association, graduating with a DMD or DDS degree from that dental school, and passing Board approved written and clinical examinations, as set out in these Rules.

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; August 1, 2009; March 1, 2006; May 1, 1989; October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16B .0202 STUDENT MAY APPLY

Applications for a dental license shall be accepted from students currently enrolled in schools of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association. Applications shall be automatically denied if the applicant fails to complete the required course of study or fails a Board approved licensure examination.

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. September 3, 1976;
Readopted Eff. March 1, 2006; September 26, 1977;
Amended Eff. September 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16B .0203 TRANSCRIPTS REQUIRED

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. September 3, 1976;

Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Repealed Eff. March 1, 2006.

SECTION .0300 - APPLICATION FOR LICENSURE

21 NCAC 16B .0301 APPLICATION FOR LICENSURE

(a) All applications for licensure as a dentist shall be made on the forms furnished by the Board at www.ncdentalboard.org and shall include the following information:

- (1) full name;
- (2) street address as of the date of the application;
- (3) permanent street address;
- (4) preferred mailing address for all information;
- (5) telephone number;
- (6) email address;
- (7) age;
- (8) date of birth;
- (9) place of birth;
- (10) citizenship or immigration status, with verifying documentation;
- (11) social security number;
- (12) marital status;
- (13) any other name by which the applicant was known in the past, accompanied by a certified copy of a court order of name change, if applicable;
- (14) all resident addresses for the 10 years preceding the date of application;
- (15) the names, addresses, and phone numbers for two individuals to whom the applicant always provides the applicant's current address;
- (16) disclosure and explanation of any bankruptcy proceedings in which the applicant was a named party;
- (17) the license number, issuing state, and expiration date for all current drivers' licenses held by the applicant, and the issuing state for all drivers' licenses held in the past by the applicant;
- (18) the date of the applicant's previous application for examination by the Board, if applicable;
- (19) the date and type of any dental permit or provisional license for which the applicant applied in the past, if applicable;
- (20) if the applicant failed an examination administered by a dental board, the date of the examination and jurisdiction of the dental board that administered the examination;
- (21) if any dental board has refused to administer an examination to applicant, the jurisdiction of the dental board that refused to administer the examination and the date of the refusal;
- (22) the dates upon which the applicant has taken the Dental National Board Examination, the location of the examination, and authorization for the Board to access the examination scores;
- (23) if the applicant failed the Dental National Board Examination, the date of the failed examination;
- (24) if the applicant has applied for a dental license in any other state or foreign country, the date of the application and whether the license was issued to the applicant;
- (25) all employment held by the applicant for the past 10 years other than dentistry;
- (26) if the applicant was terminated from employment within the past 10 years, an explanation regarding the termination;
- (27) all dental licenses from other jurisdictions ever held by the applicant, including type of licensure, license number, and dates of licensure;
- (28) if the applicant has ever been suspended or otherwise disqualified, or reprimanded, censured, or otherwise disciplined by any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:
 - (A) the facts that formed the basis for the discipline;
 - (B) the date of the discipline;
 - (C) whether the applicant appealed the discipline and the outcome of any appeal; and
 - (D) the name and address of the authority in possession of records related to discipline;
- (29) if the applicant has ever been the subject of a complaint with any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:

- (A) the facts that gave rise to the complaint;
- (B) the date of the complaint;
- (C) whether the organization that received the complaint instituted proceedings against the applicant; and
- (D) the name and address of the authority in possession of records related to the complaint;
- (30) if the applicant has ever been reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank, a written statement disclosing:
 - (A) the facts that formed the basis for the report;
 - (B) the date of the report; and
 - (C) the name and address of the authority in possession of records related to the report;
- (31) if the applicant is a diplomate, board-eligible, or a declared specialist in any branch of dentistry, a statement of specialty and how he or she is qualified;
- (32) if the applicant has taken any post-graduate training or refresher courses, other than continuing education courses, since receiving his or her dental degree, a written statement of the dates, locations, and names of the training or refresher courses;
- (33) if the applicant has ever been dropped, suspended, expelled, or disciplined by any post-secondary school or college, a written statement disclosing:
 - (A) the facts leading to the discipline;
 - (B) the date of the discipline; and
 - (C) the school or college issuing the discipline;
- (34) if the applicant has ever been denied admission to any college or post-secondary school for a reason other than academic qualifications, a written statement explaining the reason for the admission denial;
- (35) if the applicant has ever served in the armed forces of the United States or any other country, a written statement explaining:
 - (A) whether the applicant has been separated from service;
 - (B) the nature of the separation;
 - (C) if other than honorable, the circumstances surrounding his or her release from service;
 - (D) dates of service;
 - (E) the facts leading to any charges or complaints made or filed against the applicant while the applicant was serving in the armed forces, and the outcome of the charges or complaints;
 - (F) the facts leading to any disciplinary proceedings instituted against the applicant while serving in the armed forces, and the outcome of the proceedings; and
 - (G) if the applicant was ever a defendant in any court martial, the facts giving rise to those proceedings and the outcome of the proceedings;
- (36) a statement of whether the applicant has registered under the Military Selective Service Act;
- (37) a statement of whether the applicant has ever:
 - (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor; or
 - (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (38) if the applicant has been admitted to practice dentistry in any jurisdiction, a certified statement disclosing all the dental practices at which the applicant has worked from dental school graduation to the date of the application, including:
 - (A) the dates during which the applicant was employed as a dentist or engaged in practice;

- (B) the addresses of offices of places at which the applicant was employed or practicing, and the names and addresses of all employers, partners, associates, or other dentists sharing office space;
 - (C) whether the applicant was practicing general dentistry or a specialty; and
 - (D) the reason for the termination of each employment or period of private practice;
 - (39) if the applicant has ever held any other health care license, a written statement disclosing:
 - (A) the type of license held by the applicant;
 - (B) the dates the applicant held the license; and
 - (C) the licensing board that issued the license;
 - (40) if the applicant has ever held hospital privileges and those privileges were suspended or revoked, a written statement disclosing the date, location, and reason the privileges were suspended or revoked;
 - (41) if the applicant has ever held a federal Drug Enforcement Administration license or registration number and, if that license or registration number has ever been revoked, suspended, or surrendered, a written statement disclosing the date, location, and reason for the revocation, suspension, or decision to surrender the license or registration number;
 - (42) the applicant's post-high school, pre-dental education, including the name and location of the schools the applicant attended and the period of attendance;
 - (43) each degree conferred upon the applicant, including the date of the degree and institution;
 - (44) copies of the applicant's transcripts of undergraduate college;
 - (45) the name and location of each dental school that the applicant attended, the period of attendance, the degree conferred upon applicant, and the institution that conferred the degree;
 - (46) a statement disclosing and explaining any current condition or impairment, including substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dentistry. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dentist as set out in G.S. 90-41(a)(2) and (7). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program;
 - (47) a photograph of the applicant, taken within six months prior to the date of the application;
 - (48) a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation (SBI);
 - (49) a copy of an unexpired CPR certificate; and
 - (50) if the applicant holds, or has held in the past, a dental license in any other state or jurisdiction, a copy of a National Practitioner Data Bank Report concerning the applicant that was obtained within six months prior to the date the Report is submitted to the Board.
- (b) The applicant shall submit to the Board the notarized application form with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable application fee set forth in 21 NCAC 16M .0101.
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, the applicant shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) the applicant's official transcripts from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (2) if the applicant is licensed in other states, a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority, accompanied by a disclosure of any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license; and
 - (3) examination scores required by Rule .0303(b) of this Subchapter that shall include the American Board of Dental Examiners (ADEX) dental licensure examinations.

- (d) The Board shall receive all information and documentation set forth in Paragraphs (a) through (c) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (f) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; March 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

21 NCAC 16B .0302 CONSENT FOR BOARD INVESTIGATION

In making application, the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualifications or character as the Board may deem proper. The applicant consents that his character and reputation may be inquired into, and waives any right he may have to recover damages against the Board, any member thereof or its agents, or any person who answers a Board inquiry in good faith and without malicious intent.

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

- (a) All applicants for dental licensure shall achieve a passing score of at least 80 percent on the Board's sterilization and jurisprudence examinations. Applicants may take reexamination in accordance with Rule .0317 of this Section.
- (b) All applicants for dental licensure shall achieve passing scores on the examination administered by the Joint Commission on National Dental Examinations and clinical examinations administered by Board approved testing agencies. The Board shall determine which testing agencies are approved based on the requirements set forth in Paragraphs (c) and (d) of this Rule.
- (c) To qualify as an approved testing agency, the test-development agencies shall allow a representative of the Board to serve on the Board of Directors and the Examination Review Committee of the agency.
- (d) To qualify as an approved testing agency, the clinical examination administered by a testing agency shall:
 - (1) include procedures performed on human subjects as part of the assessment of restorative clinical competencies;
 - (2) include evaluations in clinical periodontics and at least three of the following subject matter areas:
 - (A) endodontics, clinical abilities testing;
 - (B) amalgam preparation and restoration;
 - (C) anterior composite preparation and restoration;
 - (D) posterior ceramic or composite preparation and restoration;
 - (E) prosthetics, written or clinical abilities testing;
 - (F) oral diagnosis, written or clinical abilities testing; or
 - (G) oral surgery, written or clinical abilities testing; and
 - (3) provide the following:
 - (A) anonymity between applicants and examination graders;
 - (B) standardization and calibration of graders;
 - (C) a mechanism for post exam analysis;
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged, or overall scoring to compensate for failures in individual subject areas;

- (E) a minimum passing score set by the testing agency for each subject area tested;
- (F) an annual review of the examination;
- (G) a task analysis performed at least once every seven years, that surveys dentists nationwide to determine the content of the examination;
- (H) a system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
- (I) does not permit a dental instructor to grade candidates at any institution at which the instructor is employed.

(e) The Board shall accept examination scores for five years following the date of the examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores. Individuals who apply more than five years after the examination date to seek licensure shall re-take the examination.

(f) The applicant shall comply with all requirements of the testing agency in applying for and taking the examination.

History Note: Authority G.S. 90-30; 90-48;
 Eff. September 3, 1976;
 Readopted Eff. September 26, 1977;
 Amended Eff. September 1, 2014; June 1, 2009; March 1, 2006; August 1, 1998; March 1, 1988;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. October 1, 2019.

- 21 NCAC 16B .0304 OTHER REQUIREMENTS**
- 21 NCAC 16B .0305 TIME FOR FILING**
- 21 NCAC 16B .0306 FOREIGN GRADUATES**
- 21 NCAC 16B .0307 EXAMINATIONS**
- 21 NCAC 16B .0308 PATIENTS AND SUPPLIES FOR CLINICAL EXAM**
- 21 NCAC 16B .0309 SCOPE OF CLINICAL EXAMINATION**

History Note: Authority G.S. 90-28; 90-30; 90-41; 90-48;
 Eff. September 3, 1976;
 Readopted Eff. September 26, 1977;
 Amended Eff. August 1, 2002 August 1, 1998; January 1, 1994; May 1, 1991; May 1, 1989; March 1, 1988; October 1, 1986; January 1, 1983;
 Temporary Amendment Eff. January 1, 2003;
 Amended Eff. January 1, 2004; April 1, 2003;
 Repealed Eff. March 1, 2006.

- 21 NCAC 16B .0310 CLINICAL OPERATIVE DENTISTRY**
- 21 NCAC 16B .0311 ORAL SURGERY: RADIOGRAPHS: INTERPRETATION AND DIAGNOSIS**
- 21 NCAC 16B .0312 REMOVABLE PROSTHODONTICS**
- 21 NCAC 16B .0313 PERIODONTICS**

History Note: Authority G.S. 90-28; 90-30; 90-48;
 Eff. September 3, 1976;
 Readopted Eff. September 26, 1977;
 Amended Eff. January 1, 1983;
 Repealed Eff. October 1, 1986.

- 21 NCAC 16B .0314 SIMULATED CLINICAL PROCEDURES**

History Note: Authority G.S. 90-28; 90-30; 90-48;
 Eff. January 1, 1983;
 Repealed Eff. October 1, 1986.

- 21 NCAC 16B .0315 REEXAMINATION**

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. January 1, 1983;
Amended Eff. April 1, 2003; August 1, 2002; May 1, 1991; May 1, 1989; October 1, 1986;
Repealed Eff. March 1, 2006.

21 NCAC 16B .0316 ORAL EXAMINATION: INSTRUCTORS

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. October 1, 1986;
Repealed Eff. May 1, 1989.

21 NCAC 16B .0317 REEXAMINATION

- (a) Any applicant who has passed the written examination but has failed the clinical examination must also re-take the written examination unless the applicant successfully passes the clinical examination within one year after passing the written examination. The Board will not accept scores from the written portion of the examination that are more than one year old.
- (b) Any applicant who has failed the written portion of the examination may retake the written portion of the examination two additional times during the 12 month period from the date of the initial examination. The applicant must wait a minimum of 72 hours before attempting to retake a written examination.
- (c) Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. November 1, 2008;
Amended Eff. September 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16B .0318 TEMPORARY LIMITED LICENSE DURING STATE OF EMERGENCY

History Note: Authority G.S. 90-28; 90-28.5, 90-30; 90-39; S.L. 2020-3, s. 4.38;
Emergency Adoption Eff. May 22, 2020 to expire pursuant to S.L. 2020-3, s. 4.38.(e);
Emergency Adoption Expired Eff. August 1, 2020 pursuant to S.L. 2020-3, s. 4.38.(e).

SECTION .0400 – LICENSURE BY BOARD CONDUCTED EXAMINATION

21 NCAC 16B .0401 APPLICATION FOR BOARD CONDUCTED EXAMINATION

21 NCAC 16B .0402 TIME FOR FILING

21 NCAC 16B .0403 EXAMINATION CONDUCTED BY THE BOARD

21 NCAC 16B .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION

21 NCAC 16B .0405 SCOPE OF BOARD CONDUCTED CLINICAL EXAMINATION

History Note: Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48;
Eff. March 1, 2006;
Amended Eff. February 1, 2008;
Repealed Eff. September 1, 2014.

21 NCAC 16B .0406 BOARD CONDUCTED REEXAMINATION

History Note: Authority G.S. 90-28; 90-30; 90-48;
Eff. April 1, 2006;
Repealed Eff. September 1, 2014.

SECTION .0500 – LICENSURE BY CREDENTIALS

21 NCAC 16B .0501 DENTAL LICENSURE BY CREDENTIALS

- (a) An applicant for a dental license by credentials shall submit to the Board:
- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter;
 - (2) the non-refundable licensure by credentials fee set forth in 21 NCAC 16M .0101;
 - (3) an affidavit from the applicant stating for the five year period set out in G.S. 90-36(c)(1):
 - (A) the dates that and locations where the applicant has practiced dentistry;
 - (B) that the applicant has provided at least 5,000 hours of clinical care to patients, not including post graduate training, residency programs or an internship; and
 - (C) that the applicant has held an active, unrestricted dental license issued by another U.S. state or U.S. territory, without any period of interruption; and
 - (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) the applicant's official transcripts from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (2) a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and a disclosure of any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
 - (3) examination scores required by Rule .0303(b) of this Subchapter;
 - (4) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant; and
 - (5) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant.
- (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (d) An applicant for dental licensure by credentials shall pass written examinations as set out in Rule .0303(a) of this Subchapter. Individuals who do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.
- (e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (f) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-28; 90-36;
Temporary Adoption Eff. January 1, 2003;
Eff. January 1, 2004;
Recodified from 21 NCAC 16B .0401 Eff. March 1, 2006;
Amended Eff. September 1, 2014; February 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

SECTION .0600 – LIMITED VOLUNTEER DENTAL LICENSE

21 NCAC 16B .0601 LIMITED VOLUNTEER DENTAL LICENSE

- (a) An applicant for a limited volunteer dental license shall submit to the Board:
- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter;
 - (2) the non-refundable limited volunteer dental licensure fee set forth in 21 NCAC 16M .0101;

- (3) an affidavit from the applicant stating:
 - (A) for the five consecutive years preceding the date of the application, the dates that and locations where the applicant has practiced dentistry;
 - (B) that the applicant has provided at least 1,000 hours per year of clinical care to patients for at least five years, not including post graduate training, residency programs or an internship; and
 - (C) that the applicant has provided at least 500 hours of clinical care to patients within the five years preceding the date of the application, not including post graduate training, residency programs or an internship; and
 - (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a limited volunteer dental license shall satisfy the requirements in Rule .0501(b) of this Subchapter.
- (c) The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (d) An applicant for limited volunteer dental license shall pass written examinations as set out in Rule .0303(a) of this Subchapter. Applicants who do not pass the written examination after three attempts in one year may not reapply for a limited volunteer dental license.
- (e) A North Carolina licensee who holds an active dental license may request his or her active dental license be converted to a limited volunteer dental license by submitting a written request to the Board office. A North Carolina active licensee making this request is not subject to Paragraphs (a) through (d) of this Rule.
- (f) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (g) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-28; 90-37.1; Temporary Adoption Eff. January 1, 2003; Eff. January 1, 2004; Recodified from 21 NCAC 16B .0501 Eff. March 1, 2006; Amended Eff. September 1, 2014; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. March 1, 2020.

SECTION .0700 – INSTRUCTOR'S LICENSE

21 NCAC 16B .0701 INSTRUCTOR'S LICENSE

- (a) An applicant for an instructor's license shall submit to the Board:
- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter;
 - (2) the non-refundable instructor's licensure fee set forth in 21 NCAC 16M .0101; and
 - (3) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an instructor's license shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) if the applicant is or has ever been employed as a dentist by or under contract with a government agency or a nonprofit or for-profit organization, a certification letter of the applicant's current status and disciplinary history from each agency or organization where the applicant is or has been employed or under contract;
 - (2) a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and information regarding all disciplinary actions

- taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
- (3) a report of any pending or final malpractice actions against the applicant, verified by the malpractice insurance carrier covering the applicant;
 - (4) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and
 - (5) a certification letter from the dean or director that the applicant has met or been approved under the credentialing standards of a dental school or an academic medical center with which the person is to be affiliated, and certification that the school or medical center is accredited by the American Dental Association's Commission on Accreditation or the Joint Commission on Accreditation of Health Care Organizations.
- (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

*History Note: Authority G.S. 90-28; 90-29.5;
 Temporary Adoption Eff. January 1, 2003;
 Eff. January 1, 2004;
 Recodified from 21 NCAC 16B .0601 Eff. March 1, 2006;
 Amended Eff. September 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. March 1, 2020.*

SECTION .0800 – SPECIAL RESTRICTED LICENSES

21 NCAC 16B .0801 TEMPORARY VOLUNTEER DENTAL PERMIT

- (a) An applicant for a temporary volunteer dental permit shall submit to the Board an application form provided by the Board at www.ncdentalboard.org that includes the following information:
- (1) full name;
 - (2) street address;
 - (3) employer name and address, and the applicant's position title;
 - (4) work, home, and cellular telephone numbers;
 - (5) fax number;
 - (6) email address;
 - (7) any other name by which the applicant was known in the past;
 - (8) social security number;
 - (9) citizenship or immigration status, with verifying documentation;
 - (10) authorization to work in the United States;
 - (11) dental education, including dental school name, address, and the applicant's graduation date, and any other dental post-graduate education;
 - (12) all dental licenses from other states ever held by the applicant, including state, license number, date issued, and licensure status as of the application date;
 - (13) if the applicant has ever been denied a license or the privilege of taking a dental licensure or competency examination by any dental licensing authority or examining body, a written statement disclosing the details, jurisdiction, and date;
 - (14) if the applicant is not engaged in the practice of dentistry as of the application date, the last month and year when the applicant practiced;
 - (15) if the applicant has been charged with or convicted of any crime within the 10 years preceding the application date, excluding traffic violations but including driving while impaired offenses, a written statement disclosing the details and copies of the charges and judgment;
 - (16) if the applicant has any contagious or infectious disease, a written statement disclosing the details;
 - (17) a statement disclosing and explaining any current condition or impairment, including substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way

affects the ability to practice dentistry. For purposes of this Rule, "current" means recently enough that the condition may affect the applicant's ability to function as a dentist as set out in G.S. 90-41(a)(2) and (7). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program;

- (18) the type of facility and addresses of all facilities where the applicant will provide temporary volunteer dental services in North Carolina;
 - (19) the dates on which the applicant intends to provide temporary volunteer dental services in North Carolina;
 - (20) the names of all North Carolina licensed dentists who will direct or supervise the applicant at each location where the applicant will provide temporary volunteer dental services;
 - (21) a copy of an unexpired CPR certificate;
 - (22) a photograph of the applicant taken within six months preceding the application date;
 - (23) a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation (SBI); and
 - (24) a signed, notarized statement by the applicant affirming the applicant has not been disciplined by any dental board or agency, the information in the application is accurate, and no fee will be charged or accepted for any dental services provided.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall request the applicable entity or person to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) a statement from all jurisdictions in which the applicant is now or has ever been licensed, disclosing the applicant's disciplinary history and current status of the applicant's license; and
 - (2) a statement signed by a North Carolina licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, stating when and where the supervision or direction will occur and affirming that no fee or monetary compensation of any kind will be paid to the applicant for dental services performed.
- (c) The Board shall receive all items set forth in Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.
- (d) The holder of a temporary volunteer dental permit shall notify the Board within five days of any changes in the practice location or facility disclosed under Paragraph (a) of this Rule.
- (e) To renew the temporary volunteer dental permit, the licensee shall submit to the Board:
- (1) an affidavit or notarized statement verifying the location and type of facility where the applicant will practice, the duration of the practice, the name of the supervising dentist, that no fee will be charged or accepted, and that the information in the original application submitted under Paragraph (a) of this Rule is correct and requires no update or correction; and
 - (2) the information required in Paragraph (b) of this Rule.
- The Board shall receive all items set forth in this Paragraph for the renewal application to be complete before the deadline for renewing applications. The applicant shall report any changes to submitted information within five days of when the licensee knew or should have known of the changes.
- (f) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (g) Any license obtained through fraud or by any false representation shall be revoked.

*History Note: Authority G.S. 90-29; 90-37.2; 90-41;
Eff. February 1, 2008;
Amended Eff. September 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.*

SECTION .0900 – EXEMPTIONS FOR ACTIVE MILITARY

21 NCAC 16B .0901 DEFINITIONS

The following definitions apply only to this Section;

- (1) "Dental Board" – the North Carolina State Board of Dental Examiners.
- (2) "Eligible licensees" – all dentists currently licensed by and in good standing with the North Carolina State Board of Dental Examiners who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.
- (3) "Extension period" – the time period disregarded pursuant to 26 U.S.C. 7508.
- (4) "Good standing" – a dentist whose license is not suspended, revoked or subject to a probationary order.

History Note: *Authority G.S. 90-28; 93B-15;*
Eff. April 1, 2010;
Amended Eff. September 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16B .0902 EXEMPTIONS GRANTED

- (a) Eligible licensees are granted a waiver of their mandatory continuing education requirements.
- (b) Eligible licensees are granted an extension period in which to pay license renewal fees and comply with all other requirements imposed by the Dental Board as conditions for maintaining licensure and current sedation permits.

History Note: *Authority G.S. 90-28; 93B-15;*
Eff. April 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .1000 - LICENSURE BY MILITARY ENDORSEMENT

21 NCAC 16B .1001 DENTAL LICENSURE BY ENDORSEMENT BASED ON MILITARY SERVICE

- (a) An applicant for a dental license by endorsement based on military service shall submit to the Board:
 - (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter; and
 - (2) written evidence demonstrating the applicant has satisfied the conditions set forth in G.S. 93B-15.1(a), including engaging in the active practice of dentistry for at least 1,000 hours per year for at least two of the five years preceding the date of the application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on military service shall satisfy the requirements in Rule .0501(b) of this Subchapter.
- (c) The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.
- (d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

History Note: *Authority G.S. 90-30(b); 90-41; 93B-15.1;*
Eff. September 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

21 NCAC 16B .1002 DENTAL LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE

- (a) An applicant for a dental license by endorsement based on the applicant's status as a military spouse shall submit to the Board:
 - (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter; and

- (2) written evidence demonstrating the applicant is married to an active member of the U.S. military and the applicant satisfies the conditions set forth in G.S. 93B-15.1(b), including engaging in the active practice of dentistry for at least 1,000 hours per year for at least two of the five years preceding the date of the application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on status as a military spouse shall satisfy the requirements in Rule .0501(b) of this Subchapter.
- (c) The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.
- (d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-30(b); 90-36; 90-41; 93B-15.1;
Eff. September 1, 2013;
Amended Eff. September 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

SECTION .1100 - REINSTATEMENT

21 NCAC 16B .1101 PROOF OF COMPETENCY

- (a) All applications for reinstatement shall be submitted on forms furnished by the Board at www.ncdentalboard.org and no application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant.
- (b) The application for reinstatement shall be accompanied by:
- (1) the non-refundable reinstatement fee;
 - (2) two letters of character reference from non-family members;
 - (3) a current report from the National Practitioner Databank;
 - (4) proof of completion of continuing education courses in clinical patient care from Board-approved sponsors, as defined in Rule 16R .0104 of this Chapter in amounts equal to the hours required for renewal of a dental license; and
 - (5) a copy of current CPR card.
- (c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.
- (d) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check. The form and card are available from the Board office.
- (e) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for two to five years may be required, at the Board's discretion, to take refresher courses on topics specified by the Board. Refresher courses may be required if the Board determines, based upon the facts of the case, that the applicant may lack skills or knowledge to practice dentistry competently. Refresher courses for individuals whose licenses have been revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher courses for individuals whose licenses have been inactive or lapsed shall take into account the amount of time the license has been inactive or lapsed and the individual's level of experience.
- (f) Applicants seeking reinstatement of a North Carolina dental license that has been revoked, suspended, inactive or lapsed for more than five years must successfully pass the clinical examination given to first-time applicants before applying for reinstatement.
- (g) Any applicant who changes his or her address shall notify the Board office within 10 business days.

History Note: Authority G.S. 90-30; 90-41;
Eff. September 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16C - LICENSURE DENTAL HYGIENISTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 16C .0101 LICENSURE

- (a) All dental hygienists shall be licensed by the North Carolina State Board of Dental Examiners before practicing dental hygiene in this State.
- (b) The examination requirement shall not apply to persons who do not hold a North Carolina dental hygiene license who are seeking volunteer licenses pursuant to G.S. 90-21.107, licensure by endorsement pursuant to Rules 16G .0107 or .0108 of this Chapter or licensure by credentials pursuant to Rule .0501 of this Subchapter.
- (c) All dental hygienists shall maintain an unexpired CPR certification at all times.

*History Note: Authority G.S. 90-223; 90-224;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; September 1, 2013; June 1, 2006; May 1, 1989; January 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.*

21 NCAC 16C .0102 NO RECIPROCAL ARRANGEMENT

*History Note: Authority G.S. 90-223; 90-224; 90-226;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

SECTION .0200 - QUALIFICATIONS

21 NCAC 16C .0201 IN GENERAL

*History Note: Authority G.S. 90-28; 90-48; 90-223; 90-224;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.*

21 NCAC 16C .0202 STUDENT MAY APPLY

The Board shall accept dental hygienist applications from students currently enrolled in schools of dental hygiene. Applications shall automatically be denied if the applicant fails to complete the required course of study or fails a Board approved licensure examination.

*History Note: Authority G.S. 90-223; 90-224;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; June 1, 2006; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16C .0203 TRANSCRIPTS REQUIRED

*History Note: Authority G.S. 90-223; 90-224;
Eff. September 3, 1976;*

Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2003; January 1, 1994; May 1, 1989;
Repealed Eff. June 1, 2006.

SECTION .0300 - APPLICATION

21 NCAC 16C .0301 APPLICATION FOR LICENSURE

(a) All applications for licensure as a dental hygienist shall be made on the forms furnished by the Board at www.ncdentalboard.org and shall include the following information:

- (1) full name;
- (2) street address as of the date of the application;
- (3) permanent street address;
- (4) preferred mailing address for all information;
- (5) telephone number;
- (6) email address;
- (7) age;
- (8) date of birth;
- (9) place of birth;
- (10) citizenship or immigration status, with verifying documentation;
- (11) social security number;
- (12) marital status;
- (13) any other name by which the applicant was known in the past, accompanied by a certified copy of a court order of name change, if applicable;
- (14) all resident addresses for the past 10 years preceding the date of application;
- (15) the names, addresses, and phone numbers for two individuals to whom the applicant always provides the applicant's current address;
- (16) disclosure and explanation of any bankruptcy proceedings in which the applicant was a named party;
- (17) the license number, issuing state, and expiration date for all current drivers' licenses held by the applicant, and the issuing state for all drivers' licenses held in the past by the applicant;
- (18) the date of the applicant's previous application for examination by the Board, if applicable;
- (19) the date and type of any dental hygiene license for which the applicant applied in the past, if applicable;
- (20) if the applicant failed an examination administered by a dental board, the date of the examination and jurisdiction of the dental board that administered the examination;
- (21) if any dental board has refused to administer an examination to applicant, the jurisdiction of the dental board that refused to administer the examination and the date of the refusal;
- (22) the dates upon which the applicant has taken the Dental Hygiene National Board Examination, the location of each examination, and authorization for the Board to access the examination scores;
- (23) if the applicant failed the Dental Hygiene National Board Examination, the date of the examination that he or she failed;
- (24) if the applicant has applied for a dental hygiene license in any other state or foreign country, the date of the application and whether the license was issued to the applicant;
- (25) all employment held by the applicant for the past 10 years;
- (26) if the applicant was terminated from employment within the past 10 years, an explanation regarding the termination;
- (27) all dental hygiene licenses from other jurisdictions ever held by the applicant, including type of licensure, license number, and dates of licensure;
- (28) places of employment at which the applicant has practiced dental hygiene, including the name of the employer, the address of the employer, dates of employment, and the reason for leaving the employment;
- (29) if the applicant has ever been suspended or otherwise disqualified, or reprimanded, censured, or otherwise disciplined by any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:
 - (A) the facts that formed the basis for the discipline;
 - (B) the date of the discipline;

- (C) whether the applicant appealed the discipline and the outcome of any appeal; and
- (D) the name and address of the authority in possession of records related to discipline;
- (30) if the applicant has ever been the subject of a complaint with any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:
 - (A) the facts that gave rise to the complaint;
 - (B) the date of the complaint;
 - (C) whether the organization that received the complaint instituted proceedings against the applicant; and
 - (D) the name and address of the authority in possession of records related to the complaint;
- (31) if the applicant has ever been reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank, a written statement disclosing:
 - (A) the facts that formed the basis for the report;
 - (B) the date of the report; and
 - (C) the name and address of the authority in possession of records related to the report;
- (32) if the applicant has ever been dropped, suspended, expelled, or disciplined by any post-secondary school or college for any cause, a written statement disclosing:
 - (A) the facts leading to the discipline;
 - (B) the date of the discipline; and
 - (C) the school or college issuing the discipline;
- (33) if the applicant has ever been denied admission to any college or post-secondary school for a reason other than academic qualifications, a written statement explaining the reason for the admission denial;
- (34) if the applicant has ever served in the armed forces of the United States or any other country, a written statement explaining:
 - (A) whether the applicant has been separated from service;
 - (B) the nature of the separation;
 - (C) if other than honorable, the circumstances surrounding his or her release from service;
 - (D) dates of service;
 - (E) the facts leading up to any charges or complaints made or filed against the applicant while the applicant was serving in the armed forces, and the outcome of the charges or complaints;
 - (F) the facts leading to any disciplinary proceedings instituted against the applicant while the applicant was serving in the armed forces, and the outcome of the proceedings; and
 - (G) if the applicant was ever a defendant in any court martial, the facts giving rise to those proceedings and the outcome of the proceedings;
- (35) a statement of whether the applicant has registered under the Military Selective Service Act;
- (36) a statement of whether the applicant has ever:
 - (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor; or
 - (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (37) the applicant's high school education including the name, location, and period of attendance for each school, and the date of graduation;
- (38) any college or university education other than dental hygiene, including the name, location, and period of attendance for each school, and the date of graduation;

- (39) the applicant's dental hygiene education including the name, location, and period of attendance for each school, and date of graduation;
 - (40) a statement disclosing and explaining any current condition or impairment, including substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dental hygiene. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dental hygienist as set out in G.S. 90-229(a)(4) and (13). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dental hygienists or other impaired professionals program;
 - (41) a photograph of the applicant, taken within six months prior to the date of the application;
 - (42) a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation (SBI);
 - (43) a copy of an unexpired CPR certificate; and
 - (44) if the applicant holds, or has held in the past, a dental hygiene license in any other state or jurisdiction, a copy of a National Practitioner Data Bank Report concerning the applicant that was obtained within six months prior to the date the report is submitted to the Board.
- (b) The applicant shall submit to the Board the notarized application form with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable application fee set forth in 21 NCAC 16M .0102.
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, the applicant shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) proof of graduation from high school or its equivalent;
 - (2) the applicant's official transcripts from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (3) if the applicant is licensed in other states, a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority, accompanied by a full disclosure of any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene license or other occupational or professional license; and
 - (4) examination scores required by Rule .0303(b) of this Subchapter which shall include the American Board of Dental Examiners (ADEX) dental hygiene licensure examinations.
- (d) The Board shall receive all information and documentation set forth in Paragraphs (a) through (c) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (f) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-223; 90-224; 90-229(a)(4) and (13);
 Eff. September 3, 1976;
 Readopted Eff. September 26, 1977;
 Amended Eff. September 1, 2014; September 1, 2013; June 1, 2006; May 1, 1989;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. March 1, 2020.

21 NCAC 16C .0302 CONSENT FOR BOARD INVESTIGATION

In making application, the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualifications or character as the Board may deem proper. The applicant consents that his or her character and reputation may be inquired into, and waives any right he or she

may have to recover damages against the Board, any member thereof, or its agents, or from any person who answers a Board inquiry in good faith without malicious intent.

*History Note: Authority G.S. 90-223; 90-224;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

(a) All applicants for dental hygiene licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule .0311 of this Section.

(b) All applicants for dental hygiene licensure shall achieve passing scores on written and clinical examinations administered by Board approved testing agencies.

(c) Clinical testing agencies shall permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

(d) The clinical examination shall:

- (1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;
- (2) include procedures performed on human subjects as part of the assessment of clinical competency;
- (3) include probing, supra and subgingival scaling and soft tissue management; and
- (4) provide the following:
 - (A) anonymity between applicants and examination graders;
 - (B) standardization and calibration of graders;
 - (C) a mechanism for post exam analysis;
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score for each subject area tested;
 - (F) an annual review of the examination;
 - (G) a task analysis performed once every seven years that surveys dentists nationwide to determine the content domain to be scored and how the sections of the examination are scored;
 - (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
 - (I) does not permit a dental hygiene instructor to grade candidates at any institution at which the instructor is employed on a full time basis.

(e) The Board shall accept examination scores for five years following the date of the examination. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores. Individuals who apply for licensure more than five years after the examination date must re-take the examination.

Each applicant shall arrange for and ensure that the applicant's scores are submitted to the Board office. The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

(f) The Board shall specify the agencies that will conduct Board approved licensure examinations.

*History Note: Authority G.S. 90-224;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. September 1, 2014; June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16C .0304 OTHER REQUIREMENTS
21 NCAC 16C .0305 TIME FOR FILING

21 NCAC 16C .0306	EXAMINATIONS
21 NCAC 16C .0307	CLINICAL EXAMINATION
21 NCAC 16C .0308	SUPPLIES
21 NCAC 16C .0309	PATIENT
21 NCAC 16C .0310	REEXAMINATION

History Note: Authority G.S. 90-223; 90-224; 90-229;
 Eff. September 3, 1976;
 Readopted Eff. September 26, 1977;
 Amended Eff. August 1, 2002; January 1, 1994; May 1, 1991; May 1, 1989; March 1, 1988;
 October 1, 1986; January 1, 1983;
 Temporary Amendment Eff. January 1, 2003;
 Amended Eff. January 1, 2004; April 1, 2003;
 Repealed Eff. June 1, 2006.

21 NCAC 16C .0311 REEXAMINATION

(a) Any applicant who passed the written examination but failed the clinical portion of any Board approved examination shall also re-take the written examination unless the applicant successfully passes the clinical examination within one year of passing the written examination. The Board shall not accept scores from the written examination that are more than one year old.

(b) Any applicant who failed the written examination may retake the written portion of the examination two additional times during a one year period and need not retake the clinical portion of the examination. The applicant shall wait at least 72 hours before attempting to retake the written examination. If the applicant does not pass the written portion of the examination upon the second reexamination, the applicant shall retake the written and clinical portions of the examination upon subsequent reexamination.

(c) Any applicant who failed the written or clinical portions of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

History Note: Authority G.S. 90-223; 90-224;
 Eff. September 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16C .0312 TEMPORARY LIMITED LICENSE DURING STATE OF EMERGENCY

History Note: Authority G.S. 90-28.5, 90-223; 90-224; 90-229; S.L. 2020-3, s. 4.38;
 Emergency Adoption Eff. May 22, 2020 to expire pursuant to S.L. 2020-3, s. 4.38.(e);
 Emergency Adoption Expired Eff. August 1, 2020 pursuant to S.L. 2020-3, s. 4.38.(e).

SECTION .0400 – LICENSURE BY EXAMINATION CONDUCTED BY THE BOARD

21 NCAC 16C .0401	APPLICATION FOR EXAMINATION CONDUCTED BY THE BOARD
21 NCAC 16C .0402	TIME FOR FILING
21 NCAC 16C .0403	EXAMINATION CONDUCTED BY THE BOARD
21 NCAC 16C .0404	PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION
21 NCAC 16C .0405	BOARD CONDUCTED REEXAMINATION

History Note: Authority G.S. 90-223; 90-224; 90-224.1;
 Eff. June 1, 2006;
 Amended Eff. July 1, 2010; February 1, 2008;
 Repealed Eff. September 1, 2014.

SECTION .0500 – LICENSURE BY CREDENTIALS

21 NCAC 16C .0501 DENTAL HYGIENE LICENSURE BY CREDENTIALS

- (a) An applicant for a dental hygiene license by credentials shall submit to the Board:
- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter;
 - (2) the nonrefundable licensure by credentials fee set forth in 21 NCAC 16M .0102;
 - (3) an affidavit from the applicant stating for the two year period set out in G.S. 90-224.1(c)(1):
 - (A) the dates that and locations where the applicant has practiced dental hygiene;
 - (B) that the applicant has provided at least 2,000 hours of clinical care to patients; and
 - (C) that the applicant holds an active, unrestricted dental hygiene license issued by another U.S. state or any U.S. territory, and has done so without any period of interruption; and
 - (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental hygiene license by credentials shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) the applicant's official transcripts from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (2) a certificate of the applicant's licensure status from the regulatory authority or other occupational or professional regulatory authority and a disclosure of all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene license or other occupational or professional license;
 - (3) examination scores required by Rule .0303(b) of this Subchapter;
 - (4) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant; and
 - (5) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant.
- (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (d) An applicant for dental hygiene licensure by credentials shall pass written examinations as set out in Rule .0303(a) of this Subchapter. Applicants who do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.
- (e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (f) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-223; 90-224.1; 90-229;
Temporary Adoption Eff. January 1, 2003;
Eff. January 1, 2004;
Recodified from Rule .0401 Eff. June 1, 2006;
Amended Eff. September 1, 2014; February 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

SECTION .0600 – REINSTATEMENT OF DENTAL HYGIENE LICENSE

21 NCAC 16C .0601 PROOF OF COMPETENCY

- (a) All applications for reinstatement shall be made on the forms furnished by the Board at www.ncdentalboard.org and no application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days.
- (b) The reinstatement fee shall accompany the application.

- (c) All applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for more than five years must successfully pass the clinical examination given to first-time applicants before seeking reinstatement.
- (d) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for two to five years may, at the Board's discretion, be required to take refresher courses as specified by the Board. Refresher courses may be required if the Board determines, based upon the facts of the case, that the applicant may lack skills or knowledge to practice dental hygiene competently. Refresher courses for individuals whose licenses have been revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher courses for individuals whose licenses have been inactive or lapsed shall take into account the amount of time the license has been inactive or lapsed and the individual's level of experience.
- (e) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.
- (f) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application for reinstatement. The form and card are available from the Board office.
- (g) Applicants shall provide proof of continuing education in clinical patient care, by Board-approved sponsors, equal to the number of hours currently required for the renewal of a dental hygiene license and current CPR certification.
- (h) Two letters of character reference from non-family members.
- (i) A report from the National Practitioner Databank.

History Note: Authority G.S. 90-223; 90-224; 90-229;
 Eff. September 1, 2014;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16D - PROVISIONAL LICENSURE: DENTISTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 16D .0101 ELIGIBILITY REQUIREMENTS

- (a) Persons shall be eligible for provisional licensure under the provisions of G.S. 90-29.3 if they have been licensed to practice dentistry in another jurisdiction for a period of at least two years immediately preceding the date of application for provisional licensure.
- (b) An applicant for provisional licensure must present to the Board documentary evidence satisfactory to the Board that he is in good standing with the dental licensing agencies of all jurisdictions wherein he is currently licensed to practice dentistry.
- (c) No person shall be eligible for provisional licensure who has been censured, disciplined, or punished by any dental licensing agency or dental organization for violation of professional ethics or the laws of any jurisdiction.

History Note: Authority G.S. 90-28; 90-29.3; 90-48;
 Eff. September 3, 1976;
 Readopted Eff. September 26, 1977;
 Amended Eff. January 1, 1994; June 1, 1991; May 1, 1989;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16D .0102 RESTRICTIONS ON PRACTICE

- (a) Any provisional license issued to a member of the faculty of an educational institution shall limit the practice of such provisional licensee to the confines of the facilities provided by the educational institution of which he is a faculty member.
- (b) The dental practice of a provisional licensee shall be restricted to a specific facility or, to a geographic location, or to a specialized field of dentistry, or any combination thereof. Direction by a dentist licensed in North Carolina

shall also be required. Such dentist shall provide direction over the functions performed by the licensee and shall be responsible for all consequences or results arising from the licensee's practice of dentistry.

(c) For purposes of this Section, the acts of a provisional licensee are deemed to be under the direction of a licensed dentist when performed in a locale where a licensed dentist is not always required to be physically present during the performance of such acts and such acts are being performed pursuant to the dentist's order, control, and approval.

History Note: Authority G.S. 90-29.3;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2002; January 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16D .0103 PATIENT RECORDS

History Note: Authority G.S. 90-29.3;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. September 1, 2014.

21 NCAC 16D .0104 APPLICATION FOR PROVISIONAL LICENSE

(a) An applicant for a provisional dental license shall submit to the Board:

- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by 21 NCAC 16B .0301(a);
- (2) the nonrefundable provisional licensure fee set forth in 21 NCAC 16M .0101;
- (3) a letter from a North Carolina licensed dentist stating he or she will supervise the applicant; and
- (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a provisional license shall satisfy the requirements in 21 NCAC 16B .0501(b).

(c) The Board shall receive all items set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by 21 NCAC 16B .0303 for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.

(d) An applicant for a provisional license shall pass written examinations as set out in 21 NCAC 16B .0303(a). Applicants who do not pass the written examination after three attempts within one year may not reapply for provisional licensure.

(e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(f) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-29.3; 90-41(a);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Temporary Amendment Eff. January 1, 2003;
Amended Eff. December 1, 2014; January 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

21 NCAC 16D .0105 EXAMINATION

History Note: Authority G.S. 90-29.3;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2002;

Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

SECTION .0200 – EXAMINATIONS

21 NCAC 16D .0201 CLINICAL EXAMINATION

*History Note: Authority G.S. 90-28; 90-29.5; 90-48;
Eff. January 1, 1983;
Repealed Eff. September 1, 2009.*

21 NCAC 16D .0202 ORAL EXAMINATION

*History Note: Authority G.S. 90-28; 90-29.5; 90-48;
Eff. January 1, 1983;
Repealed Eff. October 1, 1986.*

SUBCHAPTER 16E - PROVISIONAL LICENSURE: DENTAL HYGIENIST

21 NCAC 16E .0101 ELIGIBILITY REQUIREMENTS

*History Note: Authority G.S. 90-226;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
RRC Objection November 21, 2002 and rule was returned to agency on February 20, 2003.*

21 NCAC 16E .0102 RESTRICTIONS ON PRACTICE

The dental hygiene practice of a provisional licensee shall be restricted to the dental practice location designated in the application for provisional licensure.

*History Note: Authority G.S. 90-226;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.*

21 NCAC 16E .0103 APPLICATION FOR PROVISIONAL LICENSE

(a) An applicant for a provisional dental hygiene license shall submit to the Board:

- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by 21 NCAC 16C .0301(a);
- (2) the nonrefundable provisional licensure application fee set forth in 21 NCAC 16M .0102;
- (3) a letter from a North Carolina licensed dentist stating he or she will supervise the applicant; and
- (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a provisional license shall satisfy the requirements in 21 NCAC 16C .0501(b).

(c) The Board shall receive all items set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by 21 NCAC 16C .0303 for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.

- (d) An applicant for a provisional license shall pass written examinations as set out in 21 NCAC 16C .0303(a). Applicants who do not pass the written examination after three attempts within one year may not reapply for provisional licensure.
- (e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (f) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-226; 90-229(a); 90-232;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Temporary Amendment Eff. January 1, 2003;
Amended Eff. December 1, 2014; January 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

21 NCAC 16E .0104 EXAMINATION

As a condition precedent to issuing a provisional license, the Board may require an applicant to demonstrate professional competency by appearing before the Board for oral examination, written examination(s), clinical evaluation or any combination thereof.

The Board shall consider the applicant's training, experience, gaps in practice history and malpractice and disciplinary history in determining whether proof of competency will be required.

History Note: Authority G.S. 90-226; 90-229(a)(5).
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. December 1, 2014; August 1, 2002; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16F - PROFESSIONAL CORPORATIONS

SECTION .0100 - SCOPE

21 NCAC 16F .0101 CERTIFICATION OF LICENSURE REQUIRED

History Note: Authority G.S. 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16F .0102 APPLICATION

Applications for certification that all proposed owners of stock in a professional corporation or all managers and members of a professional limited liability company are licensed to practice dentistry shall be submitted by letter to the Board's office requesting such certification, and setting forth the following information:

- (1) The proposed name of the corporation or professional limited liability company;
- (2) The names of all proposed owners of the shares of stock to be issued by the corporation, or all members and managers of the professional limited liability company together with their addresses and current dental license numbers; and
- (3) The name or names of the proposed incorporators or the members who executed the articles of organization of the professional limited liability company, their addresses, and the current dental license numbers of such of them as are duly licensed to practice dentistry in the State of North Carolina.

History Note: Authority G.S. 55B-4(4); 57D-2-01; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 9, 2018.

21 NCAC 16F .0103 CORPORATE OR LIMITED LIABILITY COMPANY NAME

Corporation or limited liability company designations shall consist only of the use of the words "Professional Association," "P.A.," "Professional Corporation," or "P.C." for professional corporations and "Professional Limited Liability Company", or "P.L.L.C." for professional limited liability companies.

All names shall also contain only the name or surname of one or more of the shareholders or members and may include the words:

- (1) "Associate(s);" "D.D.S.;" "D.M.D.;" and
- (2) the geographic location of the company.

The company name may not be false, deceptive or misleading.

History Note: Authority G.S. 55B-5; 57D-2-01; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 2011; August 1, 2009; August 1, 2002; April 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16F .0104 CERTIFICATE OF REGISTRATION

(a) Each professional corporation, association, or limited liability company shall submit an application for a certificate of registration on the form provided by the Board for that purpose, and shall include the following information:

- (1) name of the company;
- (2) street address of the company;
- (3) mailing address of the company, if different from the street address;
- (4) email address of the company;
- (5) name, address, and dental license number of each shareholder or member, and each dentist to be employed by the company once it is registered;
- (6) name, address, and occupation of each corporation director and officer, or each limited liability company manager; and
- (7) name, address, and duties of each person, other than dentists, to be employed by the company once it is registered.

(b) The application shall be:

- (1) signed by the president or vice president of the professional corporation or association or by a manager of the professional limited liability company, and notarized;
- (2) submitted to the Board with all the information listed in Paragraph (a) of this Rule;
- (3) accompanied by the registration fee of fifty dollars (\$50.00); and
- (4) accompanied by a certified copy of the certificate of incorporation and articles of incorporation of the professional corporation or association or a certified copy of the articles of organization of the professional limited liability company. For purposes of this Subparagraph, "certified" means the copy is accompanied by certification of filing from the Secretary of State as set forth in G.S. 55D-17.

(c) The initial certificate of registration shall remain effective for one year from the date of issuance, unless suspended or terminated as provided in G.S. 55B-13, and each subsequent renewal of the certificate shall be effective for a period of one year from the date of issue.

History Note: Authority G.S. 55B-10; 57D-2-01; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;

Amended Eff. August 1, 2009; April 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018;
Amended Eff. September 1, 2020.

21 NCAC 16F .0105 APPLICATION FOR RENEWAL

(a) At least 20 days prior to the date of expiration of the certificate of registration, the corporation or limited liability company shall submit its application for renewal upon a form provided by the Board, and shall include the following information:

- (1) name of the company as shown on the certificate of registration;
- (2) name of the company as of the date of the application for renewal, if the company name has been amended;
- (3) street address of the company;
- (4) mailing address of the company, if different from the street address;
- (5) email address of the company; and
- (6) name and dental license number of each dentist practicing under the company.

(b) The application shall be submitted by the president or vice president of the professional corporation or association or by a manager of the professional limited liability company to the Board with all the information listed in Paragraph (a) of this Rule, accompanied by the renewal fee of twenty-five dollars (\$25.00).

History Note: Authority G.S. 55B-11; 57D-2-01; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018;
Amended Eff. September 1, 2020.

21 NCAC 16F .0106 TRANSFER OF STOCK

History Note: Authority G.S. 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16F .0107 AMENDMENTS TO ARTICLES OF INCORPORATION OR ORGANIZATION

Amendments to the articles of incorporation or articles of organization shall be forwarded to the Board's office within 10 days after the filing of the same in the office of the Secretary of State of North Carolina.

History Note: Authority G.S. 55B-12; 57D-2-01; 57D-2-22; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018.

21 NCAC 16F .0108 EMPLOYMENT OF DENTAL HYGIENIST

History Note: Authority G.S. 90-223(b); 90-233(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; January 1, 1983;
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

21 NCAC 16F .0109 RULES AND REGULATIONS OF THE BOARD APPLY

History Note: Authority G.S. 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16F .0110 CORPORATE OFFICERS OR MANAGERS MUST EXECUTE DOCUMENTS

All documents required by these Rules to be submitted to the Board by the corporation or limited liability company shall be executed by the president or vice president of the corporation and attested to by the secretary/treasurer or by the managers of the limited liability company, and duly acknowledged before a notary public or some other officer qualified to administer oaths.

History Note: Authority G.S. 55B-12; 57D-2-01; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 1994; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16G - DENTAL HYGIENISTS

SECTION .0100 - FUNCTIONS THAT MAY BE DELEGATED

21 NCAC 16G .0101 FUNCTIONS THAT MAY BE DELEGATED

A dental hygienist may be delegated functions to be performed under the control and supervision of a dentist who shall be responsible for any and all consequences or results arising from performance of such acts and functions. In addition to the functions set out in G.S. 90-221(a) and 21 NCAC 16H .0203, functions that may be delegated to a dental hygienist provided that the dentist first examined the patient and prescribed the procedure include:

- (1) performing periodontal screening;
- (2) performing periodontal probing;
- (3) performing subgingival exploration for or removal of hard or soft deposits;
- (4) performing sulcular irrigation;
- (5) applying resorbable sulcular antimicrobial or antibiotic agents;
- (6) using ultrasonic scalers for prophylaxis;
- (7) performing scaling and root planning;
- (8) applying oral cancer screening products in preparation for the dentist's examination and diagnosis of oral cancer;
- (9) using laser fluorescence detectors in preparation for the dentist's examination and diagnosis of cavities;
- (10) applying resin infiltration treatment for incipient smooth surface lesions, following the dentist's diagnosis that the lesion is non-penetrable; or
- (11) applying silver diamine fluoride.

History Note: Authority G.S. 90-41; 90-221; 90-223(b); 90-233;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2017; August 1, 2016; April 1, 2015; August 1, 2008; August 1, 2000; May 1, 1989; October 1, 1985; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. April 1, 2018.

21 NCAC 16G .0102 FUNCTIONS WHICH SHALL NOT BE DELEGATED

History Note: Authority G.S. 90-221(a); 90-223(b);

Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989.
Repealed Eff. August 1, 2000.

21 NCAC 16G .0103 PROCEDURES PROHIBITED

Those procedures that require the professional education and skill of a dentist and shall not be delegated to a dental hygienist include:

- (1) performing comprehensive examination, diagnosis, and treatment planning;
- (2) performing surgical or cutting procedures on hard or soft tissues, including laser, air abrasion, or micro-abrasion procedures;
- (3) placing or removing therapeutic sulcular nonresorbable agents;
- (4) issuing prescription drugs, medications, or work authorizations;
- (5) performing the final placement or intraoral adjustment of a fixed or removable appliance;
- (6) performing intraoral occlusal adjustments that affect function, fit, or occlusion of any temporary or permanent restoration or appliance;
- (7) performing direct pulp capping or pulpotomy;
- (8) placing sutures;
- (9) performing final placement or cementation of orthodontic bands or brackets;
- (10) performing the placement or cementation of final restorations;
- (11) administering any anesthetic by any route except administering topically-applied agents intended to anesthetize only cutaneous tissue;
- (12) using a high-speed handpiece intraorally;
- (13) performing cementation of endodontic posts;
- (14) condensing Amalgam;
- (15) using a transcutaneous electrical nerve stimulation (TENS) unit;
- (16) applying formocresol;
- (17) placing stainless steel crown on permanent or primary teeth;
- (18) performing pulp vitality testing;
- (19) performing curettage;
- (20) placing periodontal or surgical dressing;
- (21) performing oral brush biopsy;
- (22) taking bite registration or Elastometrics;
- (23) placing eugenol wick in dry socket;
- (24) fabricating or delivering sleep apnea appliance;
- (25) removing, replacing, or torqueing either impression or prosthetic implant abutments; and
- (26) administering any sedation or general anesthesia pharmacological agents, including drawing a dosage into a syringe.

History Note: Authority G.S. 90-221(a); 90-223(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2016; August 1, 2008; August 1, 2000; May 1, 1989; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. September 1, 2020; April 1, 2018.

21 NCAC 16G .0104 DEFINITION: DIRECT CONTROL AND SUPERVISION

History Note: Authority G.S. 90-223(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. January 1, 1983.

21 NCAC 16G .0105 EMPLOYMENT OF DENTAL HYGIENIST

History Note: Authority G.S. 90-28; 90-48; 90-223(b);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. January 1, 1983;
Repealed Eff. May 1, 1989.

21 NCAC 16G .0106 DENTAL HYGIENE SCHOOL EXTENSION FACILITIES AND OFF CAMPUS CLASSES

- (a) Dental hygiene schools may operate extension facilities and conduct off-campus hygiene classes in which dental hygiene services are provided to members of the public at Board approved sites, including non-profit health care facilities serving low income populations, state and county institutions with resident populations, hospitals, state or county health department and area health education centers.
- (b) Dental hygiene schools which operate extension facilities or conduct hygiene classes off-campus must notify the Dental Board of the location and nature of each facility or off campus course location, the names of the students assigned thereto, and the names and qualifications of all instructors functioning therein.
- (c) No student enrolled in an off-campus dental hygiene class or extension facility may receive fees, compensation or remuneration of any kind for providing dental hygiene services in accordance with G.S. 90-29(c)(4) or G.S. 90-233(c)(2).

History Note: Authority G.S. 90-29(c)(4); 90-233(c)(2);
Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16G .0107 DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON MILITARY SERVICE

- (a) An applicant for a dental hygiene license by endorsement based on military service shall submit to the Board:
- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by 21 NCAC 16C .0301(a); and
 - (2) written evidence demonstrating the applicant has satisfied the conditions set forth in G.S. 93B-15.1(a), including engaging in the active practice of dental hygiene for at least 1,000 hours per year for at least two of the five years preceding the date of application.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on military service shall satisfy the requirements in 21 NCAC 16C .0501(b).
- (c) The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.
- (d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-223; 90-224(c); 90-229; 93B-15.1;
Eff. September 19, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

21 NCAC 16G .0108 DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE

- (a) An applicant for a dental hygiene license by endorsement based on the applicant's status as a military spouse shall submit to the Board:
- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by 21 NCAC 16C .0301(a); and
 - (2) written evidence demonstrating the applicant is married to an active member of the U.S. military and the applicant satisfies the conditions set forth in G.S. 93B-15.1(b), including engaging in the active practice of dental hygiene for at least 1,000 hours per year for at least two of the five years preceding the date of application.

- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on status as a military spouse shall satisfy the requirements in Rule 21 NCAC 16C .0501(b).
- (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.
- (d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-223; 90-224(c); 90-229; 90-232; 93B-15.1;
Eff. September 19, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. March 1, 2020.

SUBCHAPTER 16H - DENTAL ASSISTANTS

SECTION .0100 - CLASSIFICATION AND TRAINING

21 NCAC 16H .0101 CLASSIFICATION

Based upon education, training, and experience, a dental assistant shall be categorized as a Dental Assistant I or a Dental Assistant II.

History Note: Authority G.S. 90-29(c)(9);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16H .0102 DENTAL ASSISTANT I

- (a) A Dental Assistant I is anyone performing any of the permitted or delegable functions under 21 NCAC 16H .0201, who does not satisfy the training and experience requirements for classification as a Dental Assistant II set forth in 21 NCAC 16H .0104, and is not licensed by the Board as a dentist or dental hygienist.
- (b) A Dental Assistant I shall have an unexpired CPR certification in effect at all times while performing any of the permitted functions under 21 NCAC 16H .0201.
- (c) No Dental Assistant I may take radiographs before completing radiology training consistent with G.S. 90-29(c)(12).

History Note: Authority G.S. 90-29(c)(9);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16H .0103 DENTAL ASSISTANT II

A Dental Assistant II is an expanded duty assistant who has completed training in accordance with Rule .0104 of this Section. Under direct control and supervision, a Dental Assistant II may be delegated intra-oral procedures in accordance with 21 NCAC 16H .0203 the supervising dentist deems appropriate, with the dentist personally and professionally responsible for any and all consequences or results arising from the performance of said acts. All delegated procedures must be reversible in nature.

History Note: Authority G.S. 90-29(c)(9);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;

*Amended Eff. August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS

(a) To be classified as a Dental Assistant II, an assistant shall have and maintain an unexpired CPR certification and also shall meet one of the following criteria:

- (1) completion of:
 - (A) an ADA-accredited dental assisting program; or
 - (B) one academic year or longer in an ADA-accredited dental hygiene program;
- (2) completion of the Dental Assistant certification examination(s) administered by the Dental Assisting National Board; or
- (3) completion of:
 - (A) employment as a Dental Assistant I for two years of the preceding five, consisting of at least 3,000 hours total;
 - (B) a 3-hour course in sterilization and infection control; and
 - (C) a 3-hour course in dental office emergencies.

(b) A Dental Assistant I who has completed the requirements of Parts (a)(3)(B)-(C) of this Rule but not completed the training pursuant to Part (a)(3)(A) may be trained by a licensed dentist and allowed to perform the functions of a Dental Assistant II, as specified in Rule .0203 of this Subchapter, under the direct control and supervision of a licensed dentist, except that a Dental Assistant I performing the functions of a Dental Assistant II pursuant to this Paragraph shall not perform the coronal polishing function set out in Rule .0203(a)(21) of this Subchapter.

(c) For purposes of this Rule, an unexpired CPR certification is one that is in effect and valid at the time of classification as a Dental Assistant II and remains so at all times while employed as a Dental Assistant II or while performing any of the permitted functions under Rule .0203 of this Subchapter.

(d) A Dental Assistant shall not take radiographs before completing radiology training consistent with G.S. 90-29(c)(12).

*History Note: Authority G.S. 90-29(c)(9);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2016; April 1, 2015; August 1, 2000; November 1, 1996; January 1, 1994;
September 1, 1998; May 1, 1989; October 1, 1986.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. September 1, 2020.*

SECTION .0200 – PERMITTED FUNCTIONS OF DENTAL ASSISTANT

21 NCAC 16H .0201 GENERAL PERMITTED FUNCTIONS OF DENTAL ASSISTANT I

(a) A Dental Assistant I may assist a dentist as a chairside assistant provided that the acts and functions of the Dental Assistant I do not constitute the practice of dentistry or dental hygiene as set out in G.S. 90-29(b) and G.S. 90-221(a).

(b) A Dental Assistant I may perform only routine dental assisting procedures such as oral hygiene instruction, chairside assisting, application of topical fluorides or topical anesthetics, and exposure of radiographs, provided that the assistant can show compliance with radiography training consistent with G.S. 90-29(c)(12).

(c) Functions of a Dental Assistant II also may be delegated to a Dental Assistant I in accordance with 21 NCAC 16H .0104(b).

*History Note: Authority G.S. 90-29(c)(9); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2000; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.*

21 NCAC 16H .0202 SPECIFIC PERMITTED FUNCTIONS OF DENTAL ASSISTANT I

*History Note: Authority G.S. 90-29(c)(9); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. November 1, 1996; May 1, 1989.
Repealed Eff. August 1, 2000.*

21 NCAC 16H .0203 PERMITTED FUNCTIONS OF DENTAL ASSISTANT II

(a) A Dental Assistant II may perform all acts or procedures that may be performed by a Dental Assistant I as set forth in 21 NCAC 16H .0201. In addition, a Dental Assistant II may be delegated the following functions to be performed under the direct control and supervision of a dentist who shall be responsible for any and all consequences or results arising from the performance of such acts and functions, provided that the dentist first examined the patient and prescribed the procedure:

- (1) taking impressions for study models and opposing casts that may be used for the construction of temporary or permanent dental appliances, adjustable orthodontic appliances, nightguards and the repair of dentures or partials;
- (2) applying sealants to teeth that do not require mechanical alteration prior to the application of such sealants;
- (3) inserting matrix bands and wedges;
- (4) placing cavity bases and liners;
- (5) placing and removing rubber dams;
- (6) cementing temporary restorations using temporary cement;
- (7) applying acid etch materials and rinses;
- (8) applying bonding agents;
- (9) removing periodontal and surgical dressings;
- (10) removing sutures;
- (11) placing and removing gingival retraction cord;
- (12) removing excess cement with hand scaler supragingivally;
- (13) flushing, drying, and temporarily closing root canals or pulp tomies;
- (14) placing and removing temporary restorations;
- (15) placing and tying in or untying and removing orthodontic arch wires, ligature wires, or lock pins;
- (16) inserting interdental spacers;
- (17) fitting (sizing) orthodontic bands or brackets;
- (18) applying dentin desensitizing solutions;
- (19) performing extra-oral adjustments that affect function, fit, or occlusion of any restoration or appliance;
- (20) initially forming and sizing orthodontic arch wires and placing arch wires after final adjustment and approval by the dentist;
- (21) polishing the clinical crown, pursuant to Paragraph (b) of this Rule using only:
 - (A) a hand-held brush and polishing agents; or
 - (B) a combination of a slow speed handpiece (not to exceed 10,000 rpm) with attached rubber cup or bristle brush, and polishing agents;
- (22) exposing radiographs and cone beam images;
- (23) polishing removable appliances extra-orally;
- (24) preparing and loading amalgam in carrier;
- (25) measuring pulse, blood pressure, and temperature;
- (26) using micro-etcher extra-orally;
- (27) placing a throat shield in oropharynx during administration of general anesthesia;
- (28) delivering dentures to patient for insertion, provided the dentist approves the denture placement; or
- (29) removing or replacing healing abutments or cover screws for implants that may be accessed supragingivally.

(b) A Dental Assistant II shall complete a course in coronal polishing identical to that taught in an ADA accredited dental assisting program, or by a licensed North Carolina hygienist or dentist lasting at least seven clock hours before using a slow speed handpiece with rubber cup or bristle brush attachment. The course shall include

instruction on dental morphology, the periodontal complex, operation of handpieces, polish aids, and patient safety. A list of ADA accredited programs offering courses in coronal polishing, which is incorporated by reference along with its subsequent amendments and editions, is available at no cost on the American Dental Association's website at <http://www.ada.org/en/coda/find-a-program>. A coronal polishing procedure shall not be represented to the patient as a prophylaxis. No coronal polishing procedure may be billed as a prophylaxis unless the dentist has performed an evaluation for calculus, deposits, or accretions and a dentist or dental hygienist has removed any substances detected.

History Note: Authority G.S. 90-29(c)(9); 90-41; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2016; April 1, 2015; January 1, 2014; September 1, 2009; September 1, 2008; August 1, 2000; October 1, 1996; January 1, 1994; May 1, 1989; October 1, 1985; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. April 1, 2018.

21 NCAC 16H .0204 GENERAL PROHIBITED FUNCTIONS OF DENTAL ASSISTANTS I AND II

History Note: Authority G.S. 90-29(c)(9); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989.
Repealed Eff. August 1, 2000.

21 NCAC 16H .0205 SPECIFIC PROHIBITED FUNCTIONS OF DENTAL ASSISTANTS I AND II

Those specific functions that shall not be delegated to either a Dental Assistant I or a Dental Assistant II include those procedures prohibited in 21 NCAC 16G .0103 for Dental Hygienists. In addition, those procedures that require the professional education and skill of a Dentist or Dental Hygienist and may not be delegated to a Dental Assistant I or Dental Assistant II shall include:

- (1) performing prophylaxis;
- (2) performing periodontal screening;
- (3) performing periodontal probing;
- (4) performing subgingival exploration for or removal of hard or soft deposits;
- (5) performing sulcular irrigation;
- (6) using ultrasonic scalers for prophylaxis;
- (7) applying antibiotic-coated materials;
- (8) applying resorbable antimicrobial agents;
- (9) performing root planing;
- (10) applying oral cancer screening products;
- (11) using laser fluorescence detectors in preparation for the dentist's examination and diagnosis of cavities; or
- (12) applying resin infiltration treatment for incipient smooth surface lesions, following the dentist's diagnosis that the lesion is non-penetrable.

History Note: Authority G.S. 90-29(c)(9); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2000; January 1, 1994; May 1, 1989; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. April 1, 2018.

21 NCAC 16H .0206 DIRECT CONTROL AND SUPERVISION DEFINED

In any instance in which the rules adopted by the Board or any portion of the North Carolina Dental Practice Act shall require or direct that any act or function be performed by a Dental Assistant I or II under the direct control and supervision of a dentist, the term "direct control and supervision of a dentist" means that the dentist must be present in the office when the act or function is being performed and that the dentist must directly and personally supervise, examine, and evaluate the results of any and all acts and functions lawfully done or performed by any person other than the dentist.

History Note: Authority G.S. 90-29(c)(9); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16H .0207 LIMITED EXCEPTION FOR ASSISTING HYGIENISTS

History Note: Authority G.S. 90-29(c)(9); 90-48; 90-233;
Eff. December 1, 2016;
Expired Eff. May 31, 2019 (Agency did not readopt rule by RRC established deadline).

21 NCAC 16H .0208 LIMITED EXCEPTION FOR ASSISTING HYGIENISTS

A Dental Assistant II may assist a Limited Supervision Hygienist, who is qualified and practicing pursuant to 21 NCAC 16Z .0101-.0103, in providing oral hygiene instruction, applying sealants, applying topical fluorides, applying fluoride varnishes, and while the Hygienist is performing prophylaxis, provided:

- (1) The treatment is provided to children in school-based oral health programs under the "ECU School-based Oral Health Expansion Readiness" grant, proposal number 19-0786 and related project number A19-0231, developed by the East Carolina University School of Dental Medicine and funded by The Duke Endowment; and
- (2) Prior to any treatment being provided, a licensed North Carolina dentist has:
 - (a) examined the patient;
 - (b) ordered in writing the treatment provided to the patient; and
 - (c) agreed to provide the patient with any necessary additional treatment resulting from the treatment rendered in accordance with this Rule.

History Note: Authority G.S. 90-29(c)(9); 90-48; 90-233;
Eff. October 1, 2019.

SUBCHAPTER 16I - ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION REQUIREMENTS: DENTAL HYGIENIST

SECTION .0100 - ANNUAL RENEWAL

21 NCAC 16I .0101 APPLICATIONS

(a) A renewal application for a dental hygiene license shall be submitted electronically before midnight on January 31 of each year through the Board's website: www.ncdentalboard.org. The renewal application shall include:

- (1) dental hygiene license number;
- (2) full name;
- (3) mailing address and any secondary address the licensee wishes to provide;
- (4) telephone number;
- (5) fax number;
- (6) email address;
- (7) citizenship or immigration status, with verifying documentation;
- (8) whether, during the calendar year preceding the application, the licensee has:

- (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (H) been disciplined by any professional licensing board; or
 - (I) had a malpractice suit settled or pending against the licensee;
 - (9) whether the licensee has been investigated for employee misclassification as an independent contractor within the five years preceding the application;
 - (10) employment status as a dental hygienist as of the date of the application, including;
 - (A) whether the licensee is currently working as a dental hygienist;
 - (B) name of the practice in which the licensee provides services;
 - (C) primary setting in which the licensee provides services;
 - (D) type of employer for which the licensee works; and
 - (E) number of hours the licensee works in an average week;
 - (11) a report of the licensee's completion of continuing education hours related to clinical patient care during the calendar year preceding the application, or the licensee's exemption from reporting;
 - (12) whether the licensee holds an unexpired CPR certification;
 - (13) whether the licensee has been employed as a limited supervision hygienist as set forth in 21 NCAC 16Z during the calendar year preceding the application; and
 - (14) a written statement certifying that the information submitted is accurate to the best of the licensee's knowledge.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the licensee shall mail to the Board the following materials for review by the Board before the license will be renewed:
- (1) for each matter existing under Subparagraph (a)(8) of this Rule, a statement describing the nature, facts, and disposition of the matter, and include a copy, certified by the clerk of court or the applicable licensing board, of the disposition or judgment in the matter; and
 - (2) for each matter under Subparagraph (a)(9) of this Rule, documentation of the results of the investigation.
- (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule, accompanied by the renewal fees set forth in 21 NCAC 16M .0102, for the renewal application to be complete. If a renewal application is not complete, the license shall not be renewed.
- (d) Eligible licensees shall be granted an extension period as set out in Rule .0111 of this Subchapter in which to pay renewal fees, obtain CPR certification, and comply with the Board's continuing education rules.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-227; 93B-15; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. April 1, 2015; February 1, 2008; April 1, 2003; August 1, 1998; May 1, 1989. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. September 1, 2020.

21 NCAC 16I .0102 CONTINUING EDUCATION REQUIRED (RECODIFIED TO 21 NCAC 16I .0201)

21 NCAC 16I .0103 APPROVED COURSES AND SPONSORS (RECODIFIED TO 21 NCAC 16I .0202)

21 NCAC 16I .0104 REPORTING CONTINUING EDUCATION (RECODIFIED TO 21 NCAC 16I .0203)

21 NCAC 16I .0105 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION REQUIREMENT (RECODIFIED TO 21 NCAC 16I .0205)

21 NCAC 16I .0106 FEE FOR LATE FILING

If the application for a renewal certificate, accompanied by the renewal fee of eighty-one dollars (\$81.00) and annual fee to assist in funding for programs for impaired dentists of twenty-five dollars (\$25.00), is not received in the Board's office before the close of business on January 31 of each year, an additional fee of fifty dollars (\$50.00) shall be charged for the renewal certificate.

*History Note: Authority G.S. 90-227; 90-232;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Transferred and Recodified from 21 NCAC 16I .0002 Eff. May 1, 1994;
Amended Eff. February 1, 2008; April 1, 2003; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.*

21 NCAC 16I .0107 LICENSE VOID UPON FAILURE TO RENEW

If an application for a renewal certificate, accompanied by the renewal fee and the additional late filing fee, is not received in the Board's office before midnight on March 31 of each year, the license becomes void and the hygienist must petition the Board for reinstatement.

*History Note: Authority G.S. 90-227;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Transferred and Recodified from 21 NCAC 16I .0003 Eff. May 1, 1994;
Amended Eff. April 1, 2015; February 1, 2008; April 1, 2003; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16I .0108 FORM OF CERTIFICATE

The certificate of renewal of license shall bear the original license number, the full name of the applicant, and the date of issuance.

*History Note: Authority G.S. 90-222; 90-223; 90-227;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1991;
Transferred and Recodified from 21 NCAC 16I .0004 Eff. May 1, 1994;
Amended Eff. April 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16I .0109 CERTIFICATE DISPLAYED

(a) The original license and current certificate of renewal of license for a Dental Hygienist shall at all times be displayed where it is visible to patients receiving treatment at the office where the dental hygienist is employed.

(b) Hygienists providing treatment at more than one office shall only be required to display a current renewal certificate of license at each additional office where they provide dental hygiene services, as long as the original license is displayed in at least one office.

(c) Hygienists shall produce their original license and current renewal certificate on demand of the North Carolina State Board of Dental Examiners or its agents.

History Note: Authority G.S. 90-227;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Transferred and Recodified from 21 NCAC 16I .0005 Eff. May 1, 1994;
Amended Eff. August 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16I .0110 DEFINITIONS

The following definitions apply only to this Subchapter:

- (1) "Dental Board" -- the North Carolina State Board of Dental Examiners.
- (2) "Eligible licensees"-- all hygienists currently licensed by and in good standing with the North Carolina State Board of Dental Examiners who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.
- (3) "Extension period" -- the time period disregarded pursuant to 26 U.S.C. 7508.
- (4) "Good standing" -- a hygienist whose license is not suspended or revoked and who is not practicing under any probationary terms.

History Note: Authority G.S. 90-222; 90-223; 93B-15;
Eff. April 1, 2010;
Amended Eff. April 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16I .0111 EXEMPTIONS GRANTED

(a) Eligible licensees, as defined in Rule .0110 of this Section, are granted a waiver of their mandatory continuing education requirements for the period allowed pursuant to G.S. 105-249.2

(b) Eligible licensees are granted an extension for the period allowed pursuant to G.S. 105-249.2 in which to pay license renewal fees and comply with all other requirements imposed by the Dental Board as conditions for maintaining licensure.

History Note: Authority G.S. 90-222; 90-223; 93B-15;
Eff. April 1, 2010;
Amended Eff. April 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0200 – CONTINUING EDUCATION

21 NCAC 16I .0201 CONTINUING EDUCATION REQUIRED

(a) As a condition of license renewal, each dental hygienist shall complete six clock hours of continuing education each calendar year. Any or all the hours may be acquired through self study courses. To count toward the mandatory continuing education requirement, self study courses shall be related to clinical patient care and offered by a board approved sponsor. The hygienist shall pass a test following the course and obtain a certificate of completion.

(b) Current certification in CPR is required in addition to the mandatory continuing education hours.

(c) A dental hygienist who can demonstrate a disabling condition may request a variance in required continuing education hours during a particular period. Written documentation of a disabling condition that interferes with the hygienist's ability to complete the required hours shall be provided to the Board. The Board may grant or deny such requests on a case by case basis, depending upon the nature of the disabling condition, its impact on the hygienist's ability to complete continuing education, and the likely duration of the disability.

(d) If a licensee who has been exempted from continuing education requirements wishes to resume practice, the licensee shall complete continuing education courses in accordance with this Rule. The Board may require licensees who have not practiced dental hygiene for more than a year to undergo a clinical test before allowing the licensee to resume practice if there is evidence that the licensee suffers from addiction or a mental or physical condition that impairs the licensee's ability to practice hygiene competently.

*History Note: Authority G.S. 90-225.1; 90-229;
Eff. May 1, 1994;
Amended Eff. April 1, 2015; November 1, 2008; April 1, 2001; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Recodified from 21 NCAC 16I .0102 Eff. January 1, 2020.*

21 NCAC 16I .0202 APPROVED COURSES AND SPONSORS

(a) Courses in satisfaction of the continuing education requirement must be related to clinical patient care. Hours spent reviewing dental or dental hygiene publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self study courses as described in .0201 of this Subchapter that are offered by a Board approved continuing education sponsor.

(b) Approved continuing education course sponsors include:

- (1) providers recognized by the American Dental Association's Continuing Education Recognition Program, the Academy of General Dentistry, the American Dental Hygienists' Association, or components of such organizations;
- (2) North Carolina Area Health Education Centers;
- (3) educational institutions with dental, dental hygiene or dental assisting schools or departments;
- (4) national, state or local societies or associations; and
- (5) local, state or federal governmental entities.

*History Note: Authority G.S. 90-225.1;
Eff. May 1, 1994;
Amended Eff. November 1, 2008; April 1, 2001; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Recodified from 21 NCAC 16I .0103 Eff. January 1, 2020.*

21 NCAC 16I .0203 REPORTING CONTINUING EDUCATION

(a) The number of hours completed to satisfy the continuing education requirement shall be indicated on the renewal application form submitted to the Board and certified by the hygienist. Upon request by the Board or its authorized agent, the hygienist shall provide documentation of attendance at courses indicated. Such documentation shall be provided by the organization offering or sponsoring the course. Documentation must include:

- (1) the title;
- (2) the number of hours of instruction;
- (3) the date of the course attended;
- (4) the name(s) of the course instructor(s); and
- (5) the name of the organization offering or sponsoring the course.

(b) All records, reports and certificates relative to continuing education hours must be maintained by the licensee for at least two years and shall be produced upon request of the Board or its authorized agent.

(c) Dental hygienists shall receive four hours credit per year for continuing education when engaged in the following:

- (1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or
- (2) service on a full-time basis with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries.

Verification of credit hours shall be maintained in the manner specified in this Rule.

(d) Evidence of service or affiliation with an agency as specified in Paragraph (c) of this Rule shall be in the form of verification of affiliation or employment which is documented by a director or an official acting in a supervisory capacity.

- (e) Hygienists who work at least 20 hours per week in an institution or entity described in Subparagraph (c)(1) or (2) of this Rule shall receive two hours credit per year for continuing education.
- (f) Hygienists may receive one hour of continuing education credits per year for performing at least five hours of dental hygiene on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will not be given for less than five hours of volunteer work.

History Note: Authority G.S. 90-225.1;
Eff. May 1, 1994;
Amended Eff. November 1, 2008; September 1, 2008; June 1, 2008; August 1, 2002; April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Recodified from 21 NCAC 16I .0104 Eff. January 1, 2020.

21 NCAC 16I .0204 RESERVED FOR FUTURE CODIFICATION

21 NCAC 16I .0205 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION REQUIREMENT

- (a) If the applicant for a renewal certificate fails to provide proof of completion of reported continuing education hours for the current year as required by Rules .0201 and .0203 of this Subchapter, the Board shall refuse to issue a renewal certificate for the year for which renewal is sought until the licensee completes the required hours of education for the current year and meets all other qualifications for renewal. If the applicant applies for credit for continuing education hours or a reduction of continuing education hours and fails to provide the required documentation upon request, the Board shall refuse to issue a certificate of renewal until the applicant meets the qualifications for credit.
- (b) If an applicant fails to meet the qualifications for renewal, including completing the required hours of continuing education and delivering the required documentation to the Board's office before midnight on March 31 of each year, the license becomes void and the holder must petition the Board for reinstatement.

History Note: Authority G.S. 90-225.1; 90-227;
Eff. May 1, 1994;
Amended Eff. April 1, 2015; February 1, 2008; April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Recodified from 21 NCAC 16I .0105 Eff. January 1, 2020.

SUBCHAPTER 16J - SANITATION

21 NCAC 16J .0101 PREMISES

- (a) The premises of a dental facility shall be kept neat and clean and free of accumulated rubbish and any substances that create a public health or safety hazard.
- (b) The premises shall be kept free of all insects and vermin.
- (c) Water of a safe, sanitary quality shall be piped under pressure, to all equipment and fixtures where the use of water is required.
- (d) All plumbing shall be in accordance with the local plumbing ordinances.
- (e) Comfortable and sanitary conditions for patients and employees shall be maintained at all times.
- (f) All liquid and human waste, including floor wash water, shall be disposed of through trapped drains into a public sanitary sewer system in localities where such system is available. In localities where a public sanitary system is not available, liquid and human waste shall be disposed of in a manner approved by the state Department of Environment and Natural Resources.
- (g) There shall be functioning toilet facilities on the premises of every dental office. They shall conform to standards of the state Department of Environment and Natural Resources.
- (h) No animals, except certified assistance animals required to assist disabled individuals, shall be allowed in any area of a dental office where clinical work is being performed.

History Note: Authority G.S. 90-41(a)(23); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2015; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16J .0102 HOUSEKEEPING

History Note: Authority G.S. 90-23; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16J .0103 STERILIZATION

All instruments or equipment used in the treatment of dental patients shall be sterilized according to usage. All dental health care settings shall follow the most current guidelines on infection control for the dental office and the dental laboratory adopted by the American Dental Association. Effective control techniques and precautions to prevent the cross contamination and transmission of infection to all persons is the professional responsibility of all dentists. All licensees are required to maintain and provide a safe, therapeutic environment for patients and employees and to follow a comprehensive and practical infection control program at all times.

History Note: Authority G.S. 90-28; 90-41(a)(23); 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. February 1, 2008; May 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16K - DENTAL SCHOOL EXTENSION FACILITIES

21 NCAC 16K .0101 AUTHORITY FOR DESIGNATION 21 NCAC 16K .0102 SUPERVISION AND DIRECTION

History Note: Authority G.S. 90-29(c)(4);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16K .0103 INSTRUCTORS TO BE APPROVED

All dentists acting as instructors in dental school extension facilities shall be approved by that official of a North Carolina school of dentistry who is generally responsible for faculty appointments.

History Note: Authority G.S. 90-29(c)(4);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2015; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16K .0104 NO FEES FOR SERVICES

Any student enrolled in a dental school extension facility shall receive no fees, compensation or remuneration of any kind or nature for dental services rendered by him other than for expenses incurred or such subsistence allowance as

is authorized and permitted by the agency or entity wherein or for which said services are rendered in accordance with G.S. 90-29(c)(4).

History Note: Authority G.S. 90-29(c)(4);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16K .0105 EXTENSION OF SCHOOL OF DENTISTRY

History Note: Authority G.S. 90-29(c)(4);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16K .0106 REPORTS TO BOARD

Every North Carolina school of dentistry shall keep the Board informed of the:

- (1) location and kind of patients seen at each dental school extension facility;
- (2) names of the students assigned there; and
- (3) names and qualifications of all instructors functioning therein.

History Note: Authority G.S. 90-29(c)(4);
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2015; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16L - BOARD OF DENTAL ELECTIONS

21 NCAC 16L .0101 BALLOTS

Ballots shall contain the name and practicing address of each nominee.

History Note: Authority G.S. 90-22;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16L .0102 NOTICE TO NOMINEE

Each nominee shall be notified by the Secretary of the Board of Elections of his nomination before midnight May 20.

History Note: Authority G.S. 90-22;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16L .0103 NOMINATED BOARD MEMBER DISQUALIFIED FROM VOTE

History Note: Authority G.S. 90-22;

Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16L .0104 SOLICITATIONS FOR VOTES

Solicitations for votes shall not:

- (1) be false or misleading or imply endorsement by the Board;
- (2) contain a material misrepresentation of fact;
- (3) misrepresent credentials, degrees, education, or experience of the candidate;
- (4) include false or misleading testimonials or endorsements;
- (5) mislead or deceive because only partial disclosure of relevant facts are made;
- (6) contain representations or implications that the solicitation materials were generated by the Board;
or
- (7) use or refer to the Board's name or any variation of the Board's name on the candidate's letterhead, envelopes, postcards or other printed or electronic media. The candidate may indicate that he or she is a candidate for election to the Board.

History Note: Authority G.S. 90-22; 90-48;
Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16M - FEES PAYABLE

SECTION .0100 - FEES PAYABLE

21 NCAC 16M .0101 DENTISTS

(a) The following fees shall be payable to the Board:

- | | | |
|------|-----------------------------------------------------------------------------------------------|-----------|
| (1) | Application for general dentistry license | \$ 395.00 |
| (2) | Renewal of general dentistry license | \$ 289.00 |
| (3) | Application for instructor's license or renewal thereof | \$ 140.00 |
| (4) | Application for provisional license | \$ 100.00 |
| (5) | Application for intern permit or renewal thereof | \$ 150.00 |
| (6) | Certificate of license to a resident dentist desiring to change to another state or territory | \$ 25.00 |
| (7) | Duplicate license | \$ 25.00 |
| (8) | Reinstatement of license | \$ 225.00 |
| (9) | Fee for late renewal of any license or permit | \$ 50.00 |
| (10) | Application for license by credentials | \$2000.00 |
| (11) | Application for limited volunteer dental license | \$ 100.00 |
| (12) | Renewal of limited volunteer dental license | \$ 25.00 |
| (13) | Board conducted examination processing fee | \$ 805.00 |
| (14) | Application for license by endorsement | \$ 395.00 |

(b) Each dentist renewing a license to practice dentistry in North Carolina shall be assessed a fee of forty dollars (\$40.00), in addition to the annual renewal fee, to be contributed to the operation of the North Carolina Caring Dental Professionals.

History Note: Authority G.S. 90-28; 90-39; 90-48; 150B-19(5); 93B-15.1;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 1998; December 1, 1994; May 1, 1989; March 1, 1988; May 1, 1987;
Temporary Amendment Eff. October 28, 1998;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. January 1, 2003;

Amended Eff. September 19, 2013; May 1, 2011; April 1, 2006; March 1, 2004; January 1, 2004; April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16M .0102 DENTAL HYGIENISTS

(a) The following fees shall be payable to the Board:

- | | | |
|-----|---------------------------------------------------------------------------------------------|----------|
| (1) | Application for examination conducted by the Board | \$275.00 |
| (2) | Renewal of dental hygiene license | \$81.00 |
| (3) | Reinstatement of license | \$60.00 |
| (4) | Application for provisional licensure | \$60.00 |
| (5) | Certificate to a resident dental hygienist desiring to change to another state or territory | \$25.00 |
| (6) | Application for license by credentials | \$750.00 |
| (7) | License application processing fee | \$75.00 |

(b) Each dental hygienist renewing a license to practice dental hygiene in North Carolina shall be assessed a fee of twenty-five dollars (\$25.00), in addition to the annual renewal fee, to be contributed to the operation of the North Carolina Caring Dental Professionals.

History Note: Authority G.S. 90-232; 150B-19(5); Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; March 1, 1988; May 1, 1987; Temporary Amendment Eff. August 20, 1999; Amended Eff. April 1, 2001; Temporary Amendment Eff. January 1, 2003; Amended Eff. October 1, 2006; June 1, 2006; March 1, 2004; January 1, 2004; April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16M .0103 PRIMARY SOURCE VERIFICATION FEE

All primary source verification requests must be in writing. Primary source verifications shall be provided in writing only for a fee of fifteen dollars (\$15.00).

History Note: Authority G.S. 150B-19(5); Eff. August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16N - RULEMAKING AND ADMINISTRATIVE HEARING PROCEDURES

SECTION .0100 - PETITIONS FOR ADOPTION OF RULES

21 NCAC 16N .0101 PETITION FOR RULEMAKING HEARINGS

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall address the petition to the Board's office. The envelope containing the petition should clearly bear the notation: RULEMAKING PETITION RE: and then the subject area, for example, DENTAL PRACTICE ACT or DENTAL HYGIENE ACT.

History Note: Authority G.S. 150B-16; Eff. August 25, 1977; Amended Eff. May 1, 1989; March 1, 1985;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0102 CONTENTS OF PETITION

The petition shall include the following information:

- (1) An indication of the subject area to which the petition is directed; for example, "This is a petition to hold a rulemaking hearing to amend Rule .0000 of Subchapter X pertaining to delegable duties to dental auxiliaries";
- (2) Either a draft of the proposed rule or a summary of its contents;
- (3) Reasons for the proposal;
- (4) The effect on existing rules or orders;
- (5) Any data supporting the proposal;
- (6) Affect of the proposed rule on existing practices in the area involved, including cost factors;
- (7) Names of those most likely to be affected by the proposed rule, with addresses if reasonably known; and
- (8) Name and address of each petitioner.

*History Note: Authority G.S. 150B-16;
Eff. August 25, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16N .0103 DISPOSITION OF PETITIONS

(a) The Board will determine whether the public interest would be served by the adoption, amendment or repeal of the requested rule. Prior to making this determination, the Board may:

- (1) Request additional information from the petitioner;
- (2) Contact interested persons or those likely to be affected by the proposed rule and request comments; and
- (3) It may use any other appropriate method for obtaining information on which to base its determination. It will consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(b) The Board shall act on a petition at its next regularly scheduled meeting or within 120 days after submission of a petition.

*History Note: Authority G.S. 150B-16;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; October 1, 1986; January 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SECTION .0200 - NOTICE OF RULEMAKING HEARINGS

21 NCAC 16N .0201 NOTICE OF PROCEEDINGS

*History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-12; 150B-60;
Eff. August 25, 1977;
Amended Eff. October 1, 1986;
Repealed Eff. May 1, 1989.*

21 NCAC 16N .0202 NOTICE OF MAILING LIST

Any person or agency desiring to be placed on the mailing list for the Board's rulemaking notices may file a written request in the Board's office. The letter of request should state those particular subject areas within the authority of the Board concerning which notice is desired. The Board may require reasonable postage and stationery costs to be paid by those requesting such notices.

History Note: Authority G.S. 90-48; 90-223(b); 150B-12(c);
Eff. August 25, 1977;
Amended Eff. May 1, 1989; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0203 ADDITIONAL INFORMATION

History Note: Authority G.S. 90-48; 90-223(b); 150B-12;
Eff. August 25, 1977;
Amended Eff. March 1, 1985;
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

SECTION .0300 - RULEMAKING HEARINGS

21 NCAC 16N .0301 REQUEST TO PARTICIPATE

History Note: Authority G.S. 90-48; 150B-12(a);
Eff. August 25, 1977;
Amended Eff. May 1, 1989;
Repealed Eff. April 1, 2014.

21 NCAC 16N .0302 CONTENT OF REQUEST: GENERAL TIME LIMITATIONS

Presentations at Board rule making hearings shall be limited to 15 minutes unless the Board prescribes some other time limit.

History Note: Authority G.S. 90-48; 90-223(b); 150B-12(a);
Eff. August 25, 1977;
Amended Eff. April 1, 2014; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0303 RECEIPT OF REQUEST: SPECIFIC TIME LIMITS

History Note: Authority G.S. 90-48; 90-223(b); 150B-12(a);
Eff. August 25, 1977;
Amended Eff. May 1, 1989.
Repealed Eff. April 1, 2014.

21 NCAC 16N .0304 WRITTEN SUBMISSIONS

Any person may file a written submission containing data, comments or arguments after publication of notice of a rulemaking hearing up to the date of hearing. The Board may in its discretion grant an additional 30 days after a hearing for further comment and argument. These written comments should be sent to the Board's office. They should clearly state the rule or proposed rule to which such comments are addressed.

History Note: Authority G.S. 90-48; 90-223(b); 150B-12;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; March 1, 1988; October 1, 1986; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0305 BOARD PRESIDENT TO PRESIDE: POWERS AND DUTIES

The president of the Board shall preside at a rulemaking hearing and shall be authorized to do the following:

- (1) Grant any extension of time in connection with a request for the presentation of oral data, views or arguments;

- (2) Recognize any prospective speaker;
- (3) Extend or shorten the time allotted for any particular presentation; and
- (4) Direct the overall proceedings including management of any questions directed to any speaker by any Board member.

History Note: Authority G.S. 90-48; 90-223(b); 150B-12(a);
Eff. August 25, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0306 STATEMENT OF REASONS FOR DECISION

History Note: Authority G.S. 90-28; 150B-60(4); 90-48; 90-223(b); 150B-12(e);
Eff. August 25, 1977;
Repealed Eff. May 1, 1989.

21 NCAC 16N .0307 RECORD OF PROCEEDINGS

A record of all rulemaking proceedings will be maintained in the Board's office for as long as the rule is in effect, and for five years thereafter, following filing. This record will contain: the original petition if any, the notice, all written memoranda and information submitted, and any record or summary of oral presentations, if any. A record of the rulemaking proceedings will be available for public inspection during the regular office hours of the Board.

History Note: Authority G.S. 90-48; 90-223(b); 150B-12(e);
Eff. August 25, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0308 TEMPORARY RULES

History Note: Authority G.S. 90-28; 150B-13;
Eff. August 25, 1977;
Amended Eff. April 1, 1988;
Repealed Eff. May 1, 1989.

SECTION .0400 - DECLARATORY RULINGS

21 NCAC 16N .0401 SUBJECTS OF DECLARATORY RULINGS

History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-17;
Eff. August 25, 1977;
Amended Eff. October 1, 1986;
Repealed Eff. May 1, 1989.

21 NCAC 16N .0402 SUBMISSION OF REQUEST FOR RULING

All requests for declaratory rulings shall be written and mailed to the Board's office. The envelope containing the request should bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:

- (1) Name and address of petitioner;
- (2) Statute or rule to which petition relates;
- (3) Concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him; and
- (4) A statement of whether an oral hearing is desired and if so, the reason therefor.

History Note: Authority G.S. 150B-4;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; October 1, 1986; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0403 DISPOSITION OF REQUESTS

(a) When the Board deems it appropriate to issue a declaratory ruling, it shall issue the declaratory ruling as soon as practicable but no longer than the period set out in G.S. 150B-4(a1).

(b) A declaratory ruling proceeding may consist of written submissions or other procedures the Board determines to be in the interests of justice and judicial economy based on the content and circumstances of the request.

(c) Whenever the Board finds good cause exists to deny the request for a declaratory ruling, the Board may deny the request to issue a declaratory ruling. In that event, the Board shall notify the petitioner of its decision in writing, stating the reasons for the denial of the declaratory ruling.

(d) For purposes of Paragraph (c) of this Rule, good cause for the denial of a declaratory ruling request may include one of the following:

- (1) the petitioner does not show that the circumstances are changed since the adoption of the rule and a declaratory ruling would be warranted;
- (2) at the time the rule was adopted, the Board gave full consideration to the factors specified in the request for a declaratory ruling;
- (3) there has been a previous determination of a contested case involving similar factual questions; or
- (4) the subject matter of the request is involved in pending litigation in any State or federal court in North Carolina.

History Note: Authority G.S. 150B-4;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. September 1, 2020.

21 NCAC 16N .0404 RECORD OF DECISION

A record of all declaratory ruling proceedings will be maintained in the Board's office for as long as the ruling is in effect and for five years thereafter. This record will contain: the request, all written submissions filed on the request, whether filed by the petitioner or any other person, and a record or summary of all the oral presentations, if any. Records of declaratory ruling proceedings will be available for public inspection during the Board's regular office hours.

History Note: Authority G.S. 150B-4;
Eff. August 25, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0405 DEFINITION

History Note: Authority G.S. 90-28; 150B-17; 90-48; 90-223(b); 150B-60(4); 150B-12(e);
Eff. August 25, 1977;
Repealed Eff. May 1, 1989.

SECTION .0500 - ADMINISTRATIVE HEARING PROCEDURES

21 NCAC 16N .0501 RIGHT TO HEARING

When the Board acts, or proposes to act, other than in rulemaking or declaratory ruling proceedings, in a manner that will affect the rights, duties, or privileges of a licensee or applicant for a license or permit, such person has a right to an administrative hearing. When the Board proposes to act in such a manner, it shall give such person notice

of his right to a hearing by mailing by certified mail to him at his last known address a notice of the proposed action and a notice of a right to a hearing. Notice of hearing may also be given by any method of service permitted in G.S. 150B-38(c), by a signed acceptance of service from such person, or by delivery to the person's attorney of record who accepts service on behalf of the person.

History Note: Authority G.S. 150B-38(h);
Eff. August 25, 1977;
Amended Eff. May 1, 1989; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.

21 NCAC 16N .0502 REQUEST FOR HEARING

(a) Any individual who believes his or her rights, duties, or privileges have been affected by the Board's administrative action, but who has not received a notice of a right to an administrative hearing, may file a request for hearing.

(b) The individual shall submit a request to the Board's office, containing the following information:

- (1) Name and address of the petitioner;
- (2) A concise statement of the action taken by the Board which is challenged;
- (3) A concise statement of the way in which petitioner has been aggrieved; and
- (4) A clear and specific statement of request for a hearing.

History Note: Authority G.S. 150B-38;
Eff. August 25, 1977;
Amended Eff. April 1, 2015; May 1, 1989; March 1, 1985; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0503 GRANTING OR DENYING HEARING REQUEST

(a) The Board will decide whether to grant a request for a hearing.

(b) The denial of request for a hearing will be issued immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.

(c) Approval of a request for a hearing will be signified by issuing a notice as required by G.S. 150B-38(b) and explained in Rule .0504 of this Section.

History Note: Authority G.S. 90-28; 150B-38;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0504 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) The name, position, address and telephone number of a person at the office of the Board to contact for further information or discussion; and
- (2) A statement explaining that the Respondent may be represented by counsel, testify, offer evidence, and cross examine adverse witnesses at the hearing.

(b) If the Board determines that the public health, safety, or welfare requires such action, it may issue an order summarily suspending a license pursuant to G.S. 150B-3. Upon service of the order, the licensee to whom the order is directed shall immediately cease practicing in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

History Note: Authority G.S. 150B-3; 150B-38;

Eff. August 25, 1977;
Amended Eff. April 1, 2015; May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0505 WHO SHALL HEAR CONTESTED CASES

All administrative hearings shall be conducted by a panel consisting of a majority of Board members eligible to vote on the issue, or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 150B-38; 150B-40;
Eff. August 25, 1997;
Amended Eff. April 1, 2015; March 1, 1988; October 1, 1986; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0506 PETITION FOR INTERVENTION

(a) A person desiring to intervene in a contested case shall file a written petition with the Board's office. The request shall bear the notation: PETITION TO INTERVENE IN THE CASE OF (NAME OF CASE).

(b) The petition shall include the following information:

- (1) the name and address of petitioner;
- (2) the business or occupation of petitioner;
- (3) the name and citation of the hearing in which petitioner is seeking to intervene;
- (4) the grounds for intervention or a statement that no grounds exist;
- (5) any claim or defense in respect to which intervention is sought; and
- (6) a summary of the arguments or evidence petitioner seeks to present.

(c) The person desiring to intervene shall serve copies of the petition on all parties to the case.

(d) If the Board determines to allow intervention, it shall send written notice to the petitioner and all parties. In cases of discretionary intervention, such notification shall include a statement of any limitations of time, subject matter, evidence or whatever else the Board deems necessary that are imposed on the intervenor.

(e) If the Board decides to deny intervention it shall send written notice to the petitioner and all parties, stating the reasons for the denial.

History Note: Authority G.S. 150B-38;
Eff. August 25, 1977;
Amended Eff. April 1, 2015; May 1, 1989; March 1, 1985; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0507 TYPES OF INTERVENTION

(a) Intervention of Right. A petition to intervene of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and his petition is timely.

(b) Permissive Intervention. A petition to intervene permissively, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:

- (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
- (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.

(c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate. Upon the filing of a timely petition, discretionary intervention will be deemed advisable if:

- (1) The information petitioner desires to present is relevant, not repetitious and cumulative; and
- (2) The petitioner would lend added impact to the arguments of the parties.

History Note: Authority G.S. 150B-38;
Eff. August 25, 1977;
Legislative Objection Lodged Eff. February 19, 1980;
Amended Eff. November 20, 1980;

*Legislative Objection Removed Eff. March 19, 1981;
Amended Eff. May 1, 1989; April 2, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018.*

21 NCAC 16N .0508 DISQUALIFICATION OF BOARD MEMBERS

- (a) Self Disqualification. If a Board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.
- (b) Petition for Disqualification. If any party in a contested case believes that a Board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit shall bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (NAME OF CASE).
- (c) Contents of Affidavit. The affidavit shall state all facts the party deems to be relevant to the disqualification of the Board member.
- (d) Timeliness and Effect of Affidavit. An affidavit of disqualification shall be considered timely if filed 10 days before commencement of the hearing. Any other affidavit shall be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule. When a petition for disqualification is filed less than 10 days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. The petitioner shall have the opportunity to present evidence supporting his or her petition, and the petition and any evidence presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of the case.
- (e) Procedure for Determining Disqualification:
- (1) The Board shall appoint a Board member to investigate the allegations of the affidavit.
 - (2) The investigator shall report to the Board the findings of the investigation.
 - (3) The Board shall decide whether to disqualify the challenged individual.
 - (4) The person whose disqualification is to be determined shall not participate in the decision but may be called upon to furnish information to the other members of the Board.
 - (5) When a Board member is disqualified, the hearing shall continue with the remaining members sitting, provided that the remaining members still constitute a majority of the Board who are eligible to vote.
 - (6) If a majority of the members of the Board who are eligible to vote are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

*History Note: Authority G.S. 150B-38; 150B-40;
Eff. August 25, 1977;
Amended Eff. April 1, 2015; May 1, 1989; October 1, 1986; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018.*

SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS AND PROCEDURES

21 NCAC 16N .0601 FAILURE TO APPEAR

*History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-25(a); 150B-60(4);
Eff. August 25, 1977;
Amended Eff. November 20, 1980;
Repealed Eff. April 1, 1988.*

21 NCAC 16N .0602 SIMPLIFICATION OF ISSUES

The parties to a contested case, specifically including the Board, may agree in advance to simplify the hearing by decreasing the number of the issues to be contested at the hearing, accepting the validity of certain proposed evidence, accepting the findings in some other case which relates to the case at hand or agreeing to such other matters as may expedite the hearing.

*History Note: Authority G.S. 150B-38; 150B-40;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16N .0603 SUBPOENAS

- (a) A request for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall:
- (1) be made in writing to the Board;
 - (2) identify any documents sought with specificity;
 - (3) include the name and home or business address of all persons to be subpoenaed; and
 - (4) if known, the date, time, and place for responding to the subpoena.
- (b) The Board shall issue the requested subpoenas within three days of the receipt of the request.
- (c) Subpoenas shall contain:
- (1) the caption of the case;
 - (2) the name and address of the person subpoenaed;
 - (3) the date, hour and location of the hearing in which the witness is commanded to appear;
 - (4) a description of the books, papers, records, or objects the witness is directed to bring with him to the hearing, if any;
 - (5) the identity of the party on whose application the subpoena was issued; and
 - (6) a return of service form.
- (d) The "return of service" form, as filled out, shall show the name and capacity of the person serving the subpoena, the date the subpoena was delivered to the person directed to make service, the date service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.
- (e) Subpoenas shall be served as permitted by Rule 45 of the North Carolina Rules of Civil Procedure, as set forth in G.S. 1A-1.
- (f) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. Such objection shall include a statement of all reasons why the subpoena should be revoked or modified. These reasons may include any basis sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that the burden of appearance or production outweighs the relevance of the evidence sought, or other undue hardship.
- (g) Any objection to a subpoena shall be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.
- (h) The party who requested the subpoena may file a written response to the objection within 10 days of receipt or 7 days prior to the contested case hearing, whichever is sooner. The written response shall be served by the requesting party on the objecting witness simultaneously with the filing of the response with the Board.
- (i) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and shall notify any other party or parties of a hearing.
- (j) The Presiding Officer of the Board members hearing the contested case shall conduct the hearing and rule on the objection unless the interests of justice and judicial economy allow the Presiding Officer to involve the other Board members. On the basis of the content of the written objection and the response, the Presiding Officer shall either permit the parties to submit affidavits in advance of the hearing or permit the parties to present evidence and testimony at the hearing, limited to the narrow questions raised by the objection and response.

*History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-39; 150B-40;
Eff. August 25, 1977;
Legislative Objection Lodged Eff. November 20, 1980;
Legislative Objection Removed Eff. March 19, 1981;
Amended Eff. April 1, 2015; May 1, 1989; March 1, 1988; October 1, 1986; March 1, 1985;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.

21 NCAC 16N .0604 FINAL DECISION

The Board will issue the final decision in all contested cases. This decision is the prerequisite "final agency decision" for the right to judicial review.

History Note: Authority G.S. 90-48; 90-223(b); 150B-43;
Eff. August 25, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0605 PROPOSALS FOR DECISIONS

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered. Any party may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. Exceptions and alternative proposals must be received within ten days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which the exception is taken. Exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions must bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE (NAME OF CASE).

(c) Any party may present oral argument to the Board upon request. The request must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.

(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be a part of the record and a copy thereof shall be given to all parties. The Board decision becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision will be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions.

History Note: Authority G.S. 150B-38; 150B-40;
Eff. August 25, 1977;
Amended Eff. May 1, 1989; March 1, 1988; October 1, 1986; November 20, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0606 FAILURE TO APPEAR

Should a party fail to appear at a scheduled hearing, the Board, or the designated administrative law judge, may proceed with the hearing and make its decision in the absence of the party, provided that the party has been given proper notice. The Board or the administrative law judge may order a continuance in order to give the party another opportunity to appear.

History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-25(a); 150B-60(4);
Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16N .0607 DISCIPLINARY FACTORS

If the Board concludes that a dentist or dental hygienist (the "Respondent") has violated the Dental Practice Act, the Dental Hygiene Practice Act, or the Board's Rules, it shall consider the following factors relevant to the discipline to be imposed:

- (1) The Board shall consider revocation of a license or permit if it concludes that lesser discipline is insufficient to protect the public and that one or more of the following factors applies:
 - (a) Respondent caused or contributed to a patient's death, permanent organic brain dysfunction, physical injury, or severe medical emergency requiring hospitalization;
 - (b) Respondent has been convicted of or entered a plea of guilty or nolo contendere to a felony charge; or
 - (c) Respondent engaged in fraud, dishonesty, misrepresentation, deceit, or fabrication related to the practice of dentistry or dental hygiene, including attempts to obtain or collect any fees.
- (2) The Board shall consider revocation or suspension of a license or permit if it concludes that lesser discipline is insufficient to protect the public and that one or more of the following factors applies:
 - (a) Respondent's ability to practice dentistry or dental hygiene is impaired;
 - (b) Respondent is mentally, emotionally, or physically unfit to practice dentistry or dental hygiene;
 - (c) Respondent is incompetent in the practice of dentistry or dental hygiene;
 - (d) Respondent's violations resulted in harm or potential harm to a patient, the public, or the dental or dental hygiene profession;
 - (e) Respondent failed to comply with a prior Board decision or consent order;
 - (f) Respondent's violations demonstrate a lack of honesty, trustworthiness, or integrity;
 - (g) Respondent has been convicted of or entered a plea of guilty or nolo contendere to charges involving or found liable for acts of fraud, misrepresentation, deceit, or fabrication that are not related to the practice of dentistry or dental hygiene;
 - (h) Respondent committed multiple instances of negligence or malpractice in treating patients, including failure to complete treatment for patients;
 - (i) Respondent distributed or caused to be distributed any intoxicant, drug, or narcotic for an unlawful purpose;
 - (j) Respondent failed to participate in the Board's investigation and disciplinary process;
 - (k) Respondent aided a person or entity not licensed in this State to perform acts or services that can only be performed by a dentist or dental hygienist licensed in this State; or
 - (l) Respondent committed any acts set forth in Sub-items (1)(a)-(c) of this Rule.
- (3) In all cases, the Board shall consider the following factors in imposing disciplinary measures:
 - (a) effect of Respondent's violation on a patient or other individuals;
 - (b) Respondent's elevation of his or her interest above that of the patient or the public;
 - (c) prior disciplinary violation in this State or any other jurisdiction, or the absence thereof;
 - (d) dishonest or selfish motive for the violation found, or the absence thereof;
 - (e) a pattern of violations;
 - (f) Respondent's intent either to commit acts where the harm or potential harm is foreseeable or to cause the harm or potential harm resulting from the acts;
 - (g) vulnerability of patient or victim, including violations involving an individual with a physical or mental disability or impairment;
 - (h) Respondent's failure to respond, or provide responsive documents or information, to requests or subpoenas from the Board during an investigation or disciplinary proceedings;
 - (i) Respondent's obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the Board;
 - (j) Respondent's submission of false evidence, false statements, or other deceptive practices during the Board's investigation or disciplinary process;
 - (k) Respondent's refusal to acknowledge the wrongful nature of the violation;
 - (l) impact of Respondent's actions on the patient's or public's perception of the dental or dental hygiene profession;
 - (m) Respondent's efforts to make restitution or to rectify consequences of misconduct, or the failure to do so;

- (n) Respondent's physical or mental disability or impairment diagnosed by a treating medical professional, which condition caused or contributed to Respondent's conduct in the opinion of the treating medical professional;
- (o) the degree of Respondent's rehabilitation, if any, prior to any disciplinary action;
- (p) Respondent's voluntary disclosure to the Board or cooperative attitude toward the proceedings;
- (q) Respondent's remorse for the violation or effect of the violation;
- (r) Respondent's character or reputation in the community;
- (s) remoteness in time of any prior violation by or discipline of Respondent;
- (t) Respondent's degree of experience in the practice of dentistry or dental hygiene;
- (u) imposition of other penalties or sanctions on Respondent for the conduct constituting the violation; and
- (v) any other factors found to be pertinent to the consideration of the discipline to be imposed on Respondent.

History Note: Authority G.S. 90-41; 90-229;
Eff. October 1, 2019.

SUBCHAPTER 160 – NITROUS-OXIDE-OXYGEN CONSCIOUS SEDATION

SECTION .0100 - REGISTRATION AND REPORTING

21 NCAC 160 .0101 REGISTRATION
21 NCAC 160 .0102 REPORTING

History Note: Authority G.S. 90-28; 90-29(b)(6); 90-48; 90-223; 150B-12;
Eff. May 24, 1978;
Repealed Eff. July 16, 1980.

SECTION .0200 - QUALIFICATIONS OF DENTAL ASSISTANTS AND HYGIENISTS

21 NCAC 160 .0201 EDUCATIONAL REQUIREMENTS
21 NCAC 160 .0202 DEFINITION
21 NCAC 160 .0203 APPROVED COURSE(S)

History Note: Authority G.S. 90-28; 90-29(b)(6); 90-48; 90-223; 150A-12;
Eff. May 24, 1978;
Repealed Eff. July 16, 1980.

SECTION .0300 - DEFINITIONS

21 NCAC 160 .0301 CONSCIOUS SEDATION

"Conscious sedation" means the use of drugs for controlling pain or apprehension without rendering the patient unconscious.

History Note: Authority G.S. 90-29(b)(6); 90-48; 90-223;
Eff. July 16, 1980;
Amended Eff. May 1, 1989;
Amended Eff. April 1, 2016 (See S.L. 2016-31);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 160 .0302 MONITORING

"Monitoring" means observation of the patient during the flow of sedation agents and includes reducing the flow of sedation or shutting off equipment controlling such flow. Monitoring does not include increasing the flow of sedation agents.

History Note: Authority G.S. 90-29(b)(6); 90-48; 90-223;
Eff. July 16, 1980;
Amended Eff. May 1, 1989;
Amended Eff. April 1, 2016 (See S.L. 2016-31);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0400 - QUALIFICATIONS TO PERFORM FUNCTIONS

21 NCAC 160 .0401 NON-DELEGABLE FUNCTIONS

Conscious sedation shall not be induced by anyone other than a dentist or a lawfully qualified nurse or anesthetist who does so under the supervision and direction of a dentist or physician.

History Note: Authority G.S. 90-29(b)(6); 90-48; 90-223;
Eff. July 16, 1980;
Amended Eff. May 1, 1989;
Amended Eff. April 1, 2016 (See S.L. 2016-31);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 160 .0402 EDUCATIONAL REQUIREMENTS

A Dental Assistant may aid and assist a licensed dentist in the monitoring of nitrous oxide-oxygen inhalant sedation by completing a Board-approved course totaling at least seven hours that covers the following topics:

- (1) definitions and descriptions of physiological and psychological aspects of pain and anxiety;
- (2) the states of drug-induced central nervous system depression through all levels of consciousness and unconsciousness, with special emphasis on the distinction between the conscious and unconscious state;
- (3) respiratory and circulatory physiology, and related anatomy;
- (4) pharmacology of agents used in the nitrous oxide techniques being taught, including drug interaction and incompatibility;
- (5) patient monitoring, with particular attention to vital signs and reflexes related to consciousness;
- (6) prevention, recognition, and management of complications and life threatening situations that may occur during the use of the nitrous oxide techniques, including cardio pulmonary resuscitation;
- (7) description and use of ventilation sedation equipment; and
- (8) potential health hazards of trace anesthetics, and proposed techniques for elimination of these potential health hazards.

History Note: Authority G.S. 90-29(b)(6); 90-29(c)(13); 90-48; 90-223;
Eff. July 16, 1980;
Amended Eff. April 1, 2016; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 160 .0403 PREVIOUS COMPLIANCE

History Note: Authority G.S. 90-28; 90-29(b)(6); 90-48; 90-223; 150B-12;
Eff. July 16, 1980;
Repealed Eff. May 1, 1989.

SUBCHAPTER 16P - ADVERTISEMENT OF DENTAL SERVICES

21 NCAC 16P .0101 COMMUNICATIONS CONCERNING DENTAL SERVICES

A dentist shall not make a false or misleading communication about the dentist or the dentist's services. A communication is false or misleading if it:

- (1) Contains a material misrepresentation of fact;
- (2) Is likely to mislead or deceive because it makes only a partial disclosure of relevant facts;
- (3) Is intended or is likely to create false or unjustified expectations of favorable results;
- (4) Contains express or implied claims of superiority which cannot reasonably be substantiated by the advertising practitioner; or
- (5) Contains other representations or implications which are intended or likely to cause an ordinary, prudent person to misunderstand or be deceived.

History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;
Eff. March 1, 1985;
Amended Eff. May 1, 1989; October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16P .0102 ADS MUST INCLUDE DENTIST'S NAME AND AREA OF PRACTICE

All advertisements of dental services shall contain the name or names of the dentist or dentists whose services are being advertised and shall state whether each dentist is a general dentist or, if qualified, a specialist in the named area of specialization. The dentist's name and designation as a general dentist or specialist shall be stated prominently in the advertisement. The dentist whose services are being advertised shall be personally responsible for determining that the content of the advertisement is not contrary to North Carolina law or Board rules.

History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;
Eff. March 1, 1985;
Amended Eff. May 1, 1989; October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16P .0103 ADVERTISEMENT OF FEES

Advertisements of dental services shall:

- (1) Not quote a range of fees for a given service unless the basic factors upon which the actual fees will be determined are disclosed;
- (2) Specify any related services which usually are required in conjunction with the advertised services and for which additional fees will be charged; and
- (3) If discounts are advertised, state the amount of the discounts. The dentist must be available in the office and provide upon request a list of actual standard fees to which the discounts will be applied.

History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;
Eff. March 1, 1985;
Amended Eff. May 1, 1989; October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16P .0104 TESTIMONIALS AND ENDORSEMENTS

Advertisements for dental services shall not:

- (1) Include false or misleading testimonials and endorsements; or
- (2) Reveal a patient's identity or personally identifiable facts, data or other information obtained in a professional capacity without first obtaining the patient's consent.

History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;

Eff. March 1, 1985;
Amended Eff. May 1, 1989; October 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16P .0105 ADVERTISING AS A SPECIALIST

(a) A dentist shall not advertise or otherwise hold himself or herself out to the public as a specialist, or use any variation of the term, in an area of practice if the communication is false or misleading under Rule .0101 of this Section.

(b) It shall be false or misleading for a dentist to hold himself or herself out to the public as a specialist, or any variation of that term, in a practice area unless the dentist:

- (1) has completed a qualifying postdoctoral educational program in that area as set forth in Paragraph (c) of this Rule; or
- (2) holds a current certification by a qualifying specialty board or organization as set forth in Paragraph (d) of this Rule.

(c) For purposes of this Rule, a "qualifying postdoctoral educational program" is a postdoctoral advanced dental educational program accredited by an agency recognized by the U.S. Department of Education (U.S. DOE).

(d) In determining whether an organization is a qualifying specialty board or organization, the Board shall consider the following criteria:

- (1) whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board shall not constitute a qualifying specialty board or organization;
- (2) whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;
- (3) whether the organization has written rules on maintenance of certification and requires periodic recertification;
- (4) whether the organization has written by-laws and a code of ethics to guide the practice of its members;
- (5) whether the organization has staff to respond to consumer and regulatory inquiries; and
- (6) whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.

(e) A dentist qualifying under Paragraph (d) of this Rule and advertising or otherwise holding himself or herself out to the public as a specialist, or any variation of that term, shall disclose in the advertisement or communication the specialty board by which the dentist was certified and provide information about the certification criteria or where the certification criteria may be located.

(f) A dentist shall maintain documentation of either completion of a qualifying postdoctoral educational program or of his or her current specialty certification and provide the documentation to the Board upon request. Dentists shall maintain documentation demonstrating that the certifying board qualifies under the criteria in Subparagraphs (d)(1) through (6) of this Rule and provide the documentation to the Board upon request.

(g) Nothing in this Section shall be construed to prohibit a dentist who does not qualify to hold himself or herself out to the public as a specialist under Paragraph (b) of this Rule from restricting his or her practice to one or more specific areas of dentistry or from advertising the availability of his or her services, provided that such advertisements do not include the term "specialist," or any variation of that term, and must state that the services advertised are to be provided by a general dentist.

History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;
Eff. March 1, 1985;
Amended Eff. April 1, 2003; May 1, 1989;
Readopted Eff. February 1, 2019.

SUBCHAPTER 16Q - GENERAL ANESTHESIA AND SEDATION

SECTION .0100 – DEFINITIONS

21 NCAC 16Q .0101 GENERAL ANESTHESIA AND SEDATION DEFINITIONS

For the purpose of these Rules relative to the administration of minimal conscious sedation, moderate conscious sedation, moderate pediatric conscious sedation, or general anesthesia by or under the direction of a dentist, the following definitions shall apply:

- (1) "Analgesia" – the diminution or elimination of pain.
- (2) "Anti-anxiety sedative" – a sedative agent administered in a dosage intended to reduce anxiety without diminishing consciousness or protective reflexes.
- (3) "Anxiolysis" – pharmacological reduction of anxiety through the administration of a single dose of a minor psychosedative, possibly in combination with nitrous oxide, to children or adults prior to commencement of treatment on the day of the appointment that allows for uninterrupted interactive ability in an awake patient with no compromise in the ability to maintain a patent airway independently and continuously. Nitrous oxide may be administered in addition to the minor psychosedative without constituting multiple dosing for purpose of these Rules.
- (4) "ACLS" – Advanced Cardiac Life Support.
- (5) "Administer" – to direct, manage, supervise, control, and have charge of all aspects of selection, dosage, timing, and method of delivery to the patient of any pharmacologic agent intended to reduce anxiety or depress consciousness.
- (6) "ASA" – American Society of Anesthesiologists.
- (7) "Auxiliaries" – non-dentist staff members involved in general anesthesia or sedation procedures.
- (8) "BLS" – Basic Life Support.
- (9) "Behavior control" – the use of pharmacological techniques to control behavior to a level that dental treatment may be performed without injury to the patient or dentist.
- (10) "Behavioral management" – the use of pharmacological or psychological techniques, singly or in combination, to modify behavior to a level that dental treatment may be performed without injury to the patient or dentist.
- (11) "Competent" – displaying special skill or knowledge derived from training and experience.
- (12) "Conscious sedation" - an induced state of a depressed level of consciousness that retains the patient's ability to maintain an airway without assistance and respond to physical stimulation and verbal commands, and that is produced by pharmacologic or non-pharmacologic agents, or a combination thereof. All dentists who perform conscious sedation shall have an unexpired sedation permit from the Dental Board.
- (13) "CRNA" – Certified Registered Nurse Anesthetist.
- (14) "Deep sedation" – an induced state of a depressed level of consciousness accompanied by partial loss of protective reflexes, including the ability to maintain an airway without assistance or respond to verbal command, produced by pharmacological agents. All dentists who perform deep sedation shall have an unexpired general anesthesia permit from the Dental Board.
- (15) "Deliver" – to assist a permitted dentist in administering sedation or anesthesia drugs by providing the drugs to the patient pursuant to a direct order from the dentist and while under the dentist's direct supervision.
- (16) "Direct supervision" – the dentist responsible for the sedation or anesthesia procedure shall be immediately available and shall be aware of the patient's physical status and well being at all times.
- (17) "Emergencies manual" – a written manual that documents:
 - (a) the location of all emergency equipment and medications in each facility;
 - (b) each staff member's role during medical emergencies; and
 - (c) the appropriate treatment for laryngospasm, bronchospasm, emesis and aspiration, respiratory depression and arrest, angina pectoris, myocardial infarction, hypertension, hypotension, allergic reactions, convulsions, syncope, bradycardia, hypoglycemia, cardiac arrest, and airway obstruction.
- (18) "Enteral" - the administration of pharmacological agents orally, intranasally, sublingually, or rectally.

- (19) "ET CO2" —end tidal carbon dioxide.
- (20) "Facility" – the location where a permit holder practices dentistry and provides anesthesia or sedation services.
- (21) "Facility inspection" – an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia or sedation is supplied, equipped, staffed, and maintained in a condition to support provision of anesthesia or sedation services in compliance with the Dental Practice Act set forth in Article 2 of G.S. 90 and the Board's rules of this Chapter.
- (22) "General anesthesia" - the intended controlled state of a depressed level of consciousness that is produced by pharmacologic agents and accompanied by a partial or complete loss of protective reflexes, including the ability to maintain an airway and respond to physical stimulation and verbal commands. All dentists who perform general anesthesia shall have an unexpired general anesthesia permit from the Dental Board.
- (23) "Good standing" – a licensee whose license is not suspended or revoked and who is not subject to a current disciplinary order imposing probationary terms.
- (24) "Immediately available" – on-site in the facility and available for use without delay.
- (25) "Itinerant general anesthesia provider"- a permittee who has complied with Rule .0206 of this Subchapter and who administers general anesthesia at another practitioner's facility.
- (26) "Local anesthesia" – the elimination of sensations, including pain, in one part of the body by the regional application or injection of a drug.
- (27) "Minimal conscious sedation" – conscious sedation characterized by a minimally depressed level of consciousness, in which the patient retains the ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command, provided to patients 13 years or older, by oral or rectal routes of administration of a single pharmacological agent, in one or more doses, not to exceed the manufacturer's maximum recommended dose, at the time of treatment, possibly in combination with nitrous oxide. Minimal conscious sedation may be provided for behavioral management.
- (28) "Minor psychosedative/Minor tranquilizer" – pharmacological agents that allow for uninterrupted interactive ability in a patient with no compromise in the ability to maintain a patent airway continuously and without assistance and carry a margin of safety wide enough to render unintended loss of consciousness unlikely.
- (29) "Moderate conscious sedation" – conscious sedation characterized by a drug induced depression of consciousness, during which patients respond to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients 13 years of age or older, by oral, nasal, rectal, or parenteral routes of administration of single or multiple pharmacological agents, in single or multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate conscious sedation may be provided for behavior control by licensed dentists who comply with the terms of Rule .0301 of this Subchapter. A moderate conscious sedation provider shall not use the following:
 - (a) drugs designed by the manufacturer for use in administering general anesthesia or deep sedation; or
 - (b) drugs contraindicated for use in moderate conscious sedation.
- (30) "Moderate pediatric conscious sedation" - conscious sedation characterized by a drug induced depression of consciousness, during which patients respond to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients up to 18 years of age, or special needs patients, by oral, nasal, rectal, or parenteral routes of administration of single or multiple pharmacological agents, in single or multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate pediatric conscious sedation may be provided for behavior control by licensed dentists who comply with the terms of Rule .0404 of this Subchapter. A moderate pediatric conscious sedation permit holder shall not use the following:
 - (a) drugs designed by the manufacturer for use in administering general anesthesia or deep sedation; or
 - (b) drugs contraindicated for use in moderate pediatric conscious sedation.
- (31) "Parenteral" - the administration of pharmacological agents intravenously, intraosseously, intramuscularly, subcutaneously, submucosally, intranasally, or transdermally.
- (32) "PALS" – Pediatric Advanced Life Support.

- (33) "Protective reflexes" – includes the ability to swallow and cough.
- (34) "RN" – Registered Nurse licensed by the North Carolina Board of Nursing.
- (35) "Sedation Procedure" – process begins when any pharmacological agent is first administered to a patient to induce general anesthesia or sedation and continues until the dentist permit holder determines that the patient has met the recovery and discharge criteria set forth in the applicable rules in this Subchapter.
- (36) "Special needs patients" – patients with diminished mental and or physical capacity who are unable to cooperate to receive ambulatory dental care without sedation or anesthesia.
- (37) "Supplemental dosing" – the oral administration of a pharmacological agent that results in an enhanced level of conscious sedation when added to the primary sedative agent administered for the purpose of oral moderate conscious sedation, and when added to the primary agent, does not exceed the maximum safe dose of either agent, separately or synergistically.
- (38) "Vested adult" – a responsible adult who is the legal parent or guardian, or designee of a legal parent or guardian, entrusted with the care of a patient following the administration of general anesthesia or conscious sedation.

*History Note: Authority G.S. 90-30.1; 90-48;
Eff. February 1, 1990;
Temporary Amendment Eff. December 11, 2002;
Amended Eff. June 1, 2017; July 3, 2008; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SECTION .0200 - GENERAL ANESTHESIA

21 NCAC 16Q .0201 GENERAL ANESTHESIA CREDENTIALS AND PERMIT

- (a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA to administer general anesthesia or perform deep sedation, the dentist shall obtain a general anesthesia permit from the Board by completing the application requirements of this Rule and paying a four hundred seventy-five dollar (\$475.00) fee that includes the one-hundred dollar (\$100.00) application fee and the three-hundred seventy-five dollar (\$375.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.
- (b) A dentist applying for a general anesthesia permit shall be in good standing with the Board, has an unexpired ACLS certification, and demonstrates that he or she has one of the following qualifications:
 - (1) has completed a minimum of two years of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level;
 - (2) has graduated from a program certified by the American Dental Association in Oral and Maxillofacial Surgery;
 - (3) is a Diplomate of or eligible for examination by the American Board of Oral and Maxillofacial Surgery; or
 - (4) is a Fellow of the American Dental Society of Anesthesiology.
- (c) Before receiving a general anesthesia permit, all applicants shall pass an evaluation and inspection as set out in Rule .0202 of this Section. Every location other than a hospital or credentialed surgery center where a general anesthesia permit holder administers general anesthesia shall pass an inspection as set out in Rule .0204 of this Section.
- (d) A dentist who holds a general anesthesia permit may administer any level of sedation without obtaining a separate sedation permit.
- (e) A dentist who does not hold a general anesthesia permit may not employ a CRNA to administer general anesthesia services. A dentist who holds a general anesthesia permit may employ a CRNA to administer general anesthesia services under supervision of the dentist.
- (f) A general anesthesia permit holder may provide general anesthesia at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the general anesthesia is administered has been inspected and complies with the requirements set out in Rule .0202 of this Section and shall obtain an itinerant general anesthesia permit and comply with the requirements of Rule .0206 of this Section.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39;
Eff. February 1, 1990;
Amended Eff. April 1, 2001; August 1, 2000;
Temporary Amendment Eff. December 11, 2002;
Amended Eff. June 1, 2017; February 5, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16Q .0202 GENERAL ANESTHESIA EQUIPMENT AND CLINICAL REQUIREMENTS

(a) A dentist administering general anesthesia shall ensure that the facility where the general anesthesia is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
 - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
 - (B) a CPR board or dental chair without enhancements, suitable for providing emergency treatment;
 - (C) lighting as necessary for specific procedures and back-up lighting;
 - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
 - (E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients, and back-up E-cylinder portable oxygen tank apart from the central system;
 - (F) small, medium, and large oral and nasal airways;
 - (G) blood pressure monitoring device;
 - (H) EKG monitor;
 - (I) pulse oximeter;
 - (J) automatic external defibrillator (AED);
 - (K) precordial stethoscope or capnograph;
 - (L) thermometer;
 - (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
 - (N) laryngoscope with working batteries;
 - (O) intubation forceps and advanced airway devices;
 - (P) tonsillar suction with back-up suction;
 - (Q) syringes as necessary for specific procedures; and
 - (R) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) antiarrhythmic;
 - (D) antihistamine;
 - (E) antihypertensive;
 - (F) bronchodilator;
 - (G) antihypoglycemic agent;
 - (H) vasopressor;
 - (I) corticosteroid;
 - (J) anticonvulsant;
 - (K) muscle relaxant;
 - (L) appropriate reversal agents;
 - (M) nitroglycerine;
 - (N) antiemetic; and
 - (O) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge protocols. The permit holder shall also provide training to familiarize auxiliaries in the treatment of clinical emergencies.
- (4) The permit holder shall maintain the following records for 10 years:

- (A) Patient's current written medical history, including a record of known allergies and previous surgeries;
 - (B) Consent to general anesthesia, signed by the patient or guardian, identifying the risks and benefits, level of anesthesia, and date signed;
 - (C) Consent to the procedure, signed by the patient or guardian identifying the risks, benefits, and date signed; and
 - (D) Patient base line vital signs, including temperature, SPO2, blood pressure, and pulse.
- (5) The anesthesia record shall include:
- (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
 - (B) procedure start and end times;
 - (C) gauge of needle and location of IV on the patient, if used;
 - (D) status of patient upon discharge; and
 - (E) documentation of complications or morbidity.
- (6) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of anesthesia while the evaluator observes, and shall demonstrate competency in the following areas:
- (1) monitoring of blood pressure, pulse, ET CO2 if capnography is utilized, and respiration;
 - (2) drug dosage and administration;
 - (3) treatment of untoward reactions including respiratory or cardiac depression;
 - (4) sterile technique;
 - (5) use of BLS certified auxiliaries;
 - (6) monitoring of patient during recovery; and
 - (7) sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency in the treatment of the following clinical emergencies:
- (1) laryngospasm;
 - (2) bronchospasm;
 - (3) emesis and aspiration;
 - (4) respiratory depression and arrest;
 - (5) angina pectoris;
 - (6) myocardial infarction;
 - (7) hypertension and hypotension;
 - (8) syncope;
 - (9) allergic reactions;
 - (10) convulsions;
 - (11) bradycardia;
 - (12) hypoglycemia;
 - (13) cardiac arrest; and
 - (14) airway obstruction.
- (d) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Paragraphs (b) and (c) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Rule .0204(h) of this Section.
- (e) A general anesthesia permit holder shall evaluate a patient for health risks before starting any anesthesia procedure.
- (f) Post-operative monitoring and discharge shall include the following:
- (1) the permit holder or a BLS certified auxiliary under his or her direct supervision shall monitor the patient's vital signs throughout the sedation procedure until the patient is recovered as defined by Subparagraph (f)(2) of this Rule and is ready for discharge from the office; and

- (2) recovery from general anesthesia shall include documentation of the following:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the special needs patient or a patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved; and
- (3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (f)(2) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color, and level of consciousness are stable and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a person responsible for the patient at time of discharge; and
 - (C) a person authorized by the patient is available to transport the patient after discharge.

History Note: Authority G.S. 90-28; 90-30.1; 90-48;
 Eff. February 1, 1990;
 Amended Eff. June 1, 2017; November 1, 2013; August 1, 2002; August 1, 2000;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. February 1, 2019; August 1, 2018.

21 NCAC 16Q .0203 TEMPORARY APPROVAL PRIOR TO SITE EVALUATION

History Note: Authority G.S. 90-28; 90-30.1;
 Eff. February 1, 1990;
 Amended Eff. August 1, 2002;
 Repealed Eff. April 1, 2016.

21 NCAC 16Q .0204 PROCEDURE FOR GENERAL ANESTHESIA EVALUATION OR INSPECTION AND RE-INSPECTION

- (a) When both an evaluation and on-site inspection is required, the Board shall designate two or more qualified persons to serve as evaluators, each of whom has administered general anesthesia for at least three years preceding the inspection. Training in general anesthesia shall not be counted in the three years. The fee for an evaluation and on-site inspection shall be three-hundred seventy-five dollars (\$375.00). When an on-site inspection involves only a facility and equipment check and not an evaluation of the dentist, the inspection may be accomplished by one evaluator, and the fee for the on-site inspection shall be two-hundred seventy-five dollars (\$275.00).
- (b) An inspection fee of two-hundred seventy-five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers general anesthesia.
- (c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.
- (d) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail."
- (e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation and inspection and shall notify the applicant in writing of its decision.
- (f) An applicant who fails an inspection or evaluation shall not receive a permit to administer general anesthesia. If a permit holder's facility fails an inspection, no further general anesthesia procedures shall be performed at the facility until it passes a re-inspection by the Board.
- (g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement

of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Paragraph (h) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.

(h) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.

(i) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.

(j) An applicant must complete all the requirements of Rule .0202, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

History Note: Authority G.S. 90-28; 90-30.1; 90-39;
Eff. February 1, 1990;
Amended April 1, 2016; February 1, 2009; December 4, 2002; January 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. February 1, 2019; August 1, 2018.

21 NCAC 16Q .0205 RESULTS OF SITE EVALUATION AND REEVALUATION

History Note: Authority G.S. 90-28; 90-30.1;
Eff. February 1, 1990;
Amended Eff. August 1, 2002;
Repealed Eff. April 1, 2016.

21 NCAC 16Q .0206 ITINERANT (MOBILE) GENERAL ANESTHESIA PERMIT, EQUIPMENT AND EVALUATION

(a) A dentist who holds a general anesthesia permit from the Board and who wishes to provide general anesthesia or other sedation services in the office of another practitioner shall obtain a mobile general anesthesia permit from the Board by completing the application requirements of this Rule and paying a one hundred dollar (\$100.00) application fee and a two-hundred seventy-five dollar (\$275.00) inspection fee. No mobile permit shall be required to administer general anesthesia in a hospital or credentialed surgery center.

(b) Before a mobile general anesthesia permit may be issued, a general anesthesia permit holder appointed by the Board shall inspect the applicant's equipment and medications to ensure that they comply with Paragraphs (c) and (d) of this Rule.

(c) The permit holder shall maintain in good working order the equipment required by Rule .0202(a)(1) of this Section.

(d) The unexpired medications required by Rule .0202(a)(2) of this Section shall be on site and available to the permit holder.

(e) The evaluation and on-site inspection shall be conducted as set out in Rule .0204 of this Section.

(f) Prior to administering general anesthesia or sedation at another provider's office, the mobile permit holder shall inspect the host facility within 24 business hours before each procedure and shall ensure that:

- (1) the operator's size and design permit emergency management and access of emergency equipment and personnel;
- (2) there is a CPR board or dental chair without enhancements suitable for providing emergency treatment;
- (3) there is lighting to permit performance of all procedures planned for the facility;
- (4) there is suction equipment, including non-electrical back-up suction; and
- (5) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to

patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(g) Upon inspection, the permit holder shall document that the facility where the general anesthesia or sedation procedure will be performed was inspected and that it met the requirements of Paragraph (f) of this Rule. The permit holder shall retain the inspection and compliance record required by this Paragraph for 10 years following the procedure and provide these records to the Board upon request.

(h) The mobile general anesthesia permit shall be displayed in the host facility where it is visible to patients receiving treatment.

(i) All applicants for mobile general anesthesia permit shall be in good standing with the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39; 90-48;
Eff. June 1, 2017;
Amended Eff. August 1, 2018.*

21 NCAC 16Q .0207 ANNUAL RENEWAL OF GENERAL ANESTHESIA AND ITINERANT (MOBILE) GENERAL ANESTHESIA PERMIT REQUIRED

(a) General anesthesia and itinerant general anesthesia permits shall be renewed by the Board annually at the same time as dental licenses by the dentist paying a one-hundred dollar (\$100.00) fee and completing the application requirements of this Rule. If the completed general anesthesia and itinerant general anesthesia permit renewal application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.

(b) Itinerant general anesthesia permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar (\$100.00) fee and completing the application requirements of this Rule. The application is available on the Board's website: www.ncdentalboard.org. If the completed itinerant general sedation permit application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.

(c) Any dentist who fails to renew a general anesthesia permit or itinerant general anesthesia permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose anesthesia permits or itinerant general anesthesia permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers general anesthesia in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

(e) As a condition for renewal of the general anesthesia and itinerant general anesthesia permit, the general anesthesia permit holder shall meet the clinical equipment and requirements set out in Rule .0202 of this Section and the itinerant general anesthesia permit holder shall maintain the clinical equipment and requirements set out in Rule .0206 of this Section and shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which shall be counted toward fulfillment of the continuing education required each calendar year for license renewal:
 - (A) sedation;
 - (B) medical emergencies;
 - (C) monitoring IV sedation and the use of monitoring equipment;
 - (D) pharmacology of drugs and agents used in general anesthesia and IV sedation;
 - (E) physical evaluation, risk assessment, or behavioral management; or
 - (F) airway management;
- (2) unexpired ACLS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) of this Rule;
- (3) that the permit holder and all auxiliaries involved in anesthesia or sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;
- (4) that the permit holder and all auxiliaries involved in anesthesia or sedation procedures have read the practice's emergency manual in the preceding year; and
- (5) that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a general anesthesia or itinerant general anesthesia permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48;
Eff. June 1, 2017;
Amended Eff. August 1, 2018.*

SECTION .0300 - PARENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0301 CREDENTIALS AND PERMITS FOR MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA employed to administer or RN employed to deliver moderate conscious sedation, the dentist shall obtain a permit from the Board by completing the application requirements in this Rule and paying a fee of three hundred seventy-five dollar (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the facility of the permit holder where it is visible to patients receiving treatment.

(b) The permit holder shall provide supervision to any CRNA employed to administer or RN employed to deliver sedation, and shall ensure that the level of the sedation does not exceed the level of the sedation allowed by the permit holder's permit.

(c) A dentist applying for a permit to administer moderate conscious sedation shall document the following:

(1) Training that may consist of either:

(A) Completion of 60 hours of Board approved didactic training in intravenous conscious sedation, and 30 hours of clinical training that shall include successful management of a minimum of 20 live patients, under supervision of the course instructor, using intravenous sedation. Training shall be provided by one or more individuals who meet the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists that is hereby incorporated by reference, including subsequent amendments and editions. The guidelines may be found at www.ada.org/coda; or

(B) Completion of a pre-doctoral dental or postgraduate program that included intravenous conscious sedation training equivalent to that defined in Part (c)(1)(A) of this Rule;

(2) Unexpired ACLS certification; and

(3) That all auxiliaries involved in sedation procedures have unexpired BLS certification.

(d) All applicants for a moderate conscious sedation permit shall be in good standing with the Board.

(e) Prior to issuance of a moderate conscious sedation permit, the applicant shall pass an evaluation and a facility inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her facility.

(f) A dentist who holds a moderate conscious sedation permit shall not intentionally administer deep sedation.

(g) A moderate conscious sedation permit holder may provide moderate conscious sedation at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the moderate conscious sedation is administered has been inspected and complies with the requirements set out in Rule .0302 of this Section. The permit holder shall also obtain an itinerant moderate conscious sedation permit and comply with the requirements of Rule .0304 of this Section.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48;
Eff. February 1, 1990;
Amended Eff. April 1, 2001; August 1, 2000; January 1, 1994;
Temporary Amendment Eff. December 11, 2002;
Amended Eff. June 1, 2017; July 1, 2010, July 3, 2008; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. February 1, 2019; August 1, 2018.*

21 NCAC 16Q .0302 MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist administering moderate conscious sedation or supervising any CRNA employed to administer or RN employed to deliver moderate conscious sedation shall ensure that the facility where the sedation is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
 - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
 - (B) a CPR board or a dental chair without enhancements, suitable for providing emergency treatment;
 - (C) lighting as necessary for specific procedures and back-up lighting;
 - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
 - (E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;
 - (F) small, medium, and large oral and nasal airways;
 - (G) blood pressure monitoring device;
 - (H) EKG monitor;
 - (I) pulse oximeter;
 - (J) automatic external defibrillator (AED);
 - (K) precordial stethoscope or capnograph;
 - (L) thermometer;
 - (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
 - (N) laryngoscope with working batteries;
 - (O) intubation forceps and advanced airway devices;
 - (P) tonsillar suction with back-up suction;
 - (Q) syringes as necessary for specific procedures; and
 - (R) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) antiarrhythmic;
 - (D) antihistamine;
 - (E) antihypertensive;
 - (F) bronchodilator;
 - (G) antihypoglycemic agent;
 - (H) vasopressor;
 - (I) corticosteroid;
 - (J) anticonvulsant;
 - (K) muscle relaxant;
 - (L) appropriate reversal agents;
 - (M) nitroglycerine;
 - (N) antiemetic; and
 - (O) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge protocols. The permit holder shall also provide training to familiarize auxiliaries in the treatment of clinical emergencies;
- (4) The dentist shall maintain the following records for at least 10 years:
 - (A) patient's current written medical history and pre-operative assessment;
 - (B) drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration; and
 - (C) a sedation record;
- (5) The sedation record shall include:
 - (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO₂ if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;

- (B) procedure start and end times;
 - (C) gauge of needle and location of IV on the patient, if used;
 - (D) status of patient upon discharge;
 - (E) documentation of complications or morbidity; and
 - (F) consent form, signed by the patient or guardian, identifying the procedure, risks and benefits, level of sedation, and date signed; and
- (6) The following conditions shall be satisfied during a sedation procedure:
- (A) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding sedation throughout the sedation procedure and is not performing the surgery or other dental procedure; and
 - (B) If IV sedation is used, IV infusion shall be administered before the start of the procedure and maintained until the patient is ready for discharge.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a patient, including the deployment of an intravenous delivery system, while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:
- (1) monitoring blood pressure, pulse, ET CO₂ if capnography is utilized, and respiration;
 - (2) drug dosage and administration;
 - (3) treatment of untoward reactions including respiratory or cardiac depression if applicable;
 - (4) sterile technique;
 - (5) use of BLS certified auxiliaries;
 - (6) monitoring of patient during recovery; and
 - (7) sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
- (1) laryngospasm;
 - (2) bronchospasm;
 - (3) emesis and aspiration;
 - (4) respiratory depression and arrest;
 - (5) angina pectoris;
 - (6) myocardial infarction;
 - (7) hypertension and hypotension;
 - (8) allergic reactions;
 - (9) convulsions;
 - (10) syncope;
 - (11) bradycardia;
 - (12) hypoglycemia;
 - (13) cardiac arrest; and
 - (14) airway obstruction.
- (d) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Paragraphs (b) and (c) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Rule .0306(h) of this Section.
- (e) A moderate conscious sedation permit holder shall evaluate a patient for health risks before starting any sedation procedure as follows:
- (1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use or;
 - (2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by a consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the procedure.
- (f) Post-operative monitoring and discharge:

- (1) the permit holder or a BLS certified auxiliary under his or her direct supervision shall monitor the patient's vital signs throughout the sedation procedure until the patient is recovered as defined in Subparagraph (f)(2) of this Rule and is ready for discharge from the office.
- (2) recovery from moderate conscious sedation shall include documentation of the following:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the special needs patient or patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (f)(2) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color, and level of consciousness are stable, and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a person responsible for the patient at the time of discharge; and
 - (C) a person authorized by the patient is available to transport the patient after discharge.

History Note: Authority G.S. 90-28; 90-30.1; 90-48;
 Eff. February 1, 1990;
 Amended Eff. August 1, 2002; August 1, 2000;
 Temporary Amendment Eff. December 11, 2002;
 Amended Eff. June 1, 2017; November 1, 2013; July 1, 2010; July 3, 2008; August 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. February 1, 2019; August 1, 2018.

21 NCAC 16Q .0303 TEMPORARY APPROVAL PRIOR TO SITE INSPECTION

History Note: Authority G.S. 90-28; 90-30.1;
 Eff. February 1, 1990;
 Amended Eff. August 1, 2002; January 1, 1994;
 Temporary Amendment Eff. December 11, 2002;
 Amended Eff. September 1, 2014; February 1, 2009; July 3, 2008; August 1, 2004;
 Repealed Eff. April 1, 2016.

21 NCAC 16Q .0304 ITINERANT (MOBILE) MODERATE PERMIT, EQUIPMENT AND EVALUATION

- (a) A dentist who holds a moderate conscious sedation permit from the Board and who wishes to provide moderate conscious sedation or other sedation services in the office of another practitioner shall obtain a mobile moderate conscious sedation permit from the Board by completing the application requirements of this Rule and paying a one-hundred dollar (\$100.00) application fee and a two-hundred seventy-five dollar (\$275.00) inspection fee. No mobile permit shall be required to administer moderate conscious sedation in a hospital or credentialed surgery center.
- (b) The permit holder shall maintain in good working order the equipment required by Rule .0302(a)(1) of this Section.
- (c) The unexpired medications required by Rule .0302(a)(2) of this Section shall be on site and available to the permit holder.
- (d) Before a mobile moderate sedation permit may be issued, a permit holder appointed by the Board shall inspect the applicant's equipment and medications to ensure that they comply with Paragraphs (b) and (c) of this Rule. The evaluation and inspection shall be conducted as set out in Rule .0306 of this Section.

(e) Prior to administering moderate conscious sedation or other sedation services at another provider's office, the mobile permit holder shall inspect the host facility within 24 business hours before each procedure and shall ensure that:

- (1) the operator's size and design permit emergency management and access of emergency equipment and personnel;
- (2) there is a CPR board or dental chair without enhancements suitable for providing emergency treatment;
- (3) there is lighting to permit performance of all procedures planned for the facility;
- (4) there is suction equipment, including non-electrical back-up suction; and
- (5) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording moderate conscious sedation or other sedation services data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(f) Upon inspection, the permit holder shall document that the facility where the general anesthesia or sedation procedure will be performed was inspected and that it met the requirements of Paragraph (e) of this Rule. The permit holder shall retain the inspection and compliance record required by this Paragraph for 10 years following the procedure and provide these records to the Board upon request.

(g) The mobile moderate conscious sedation permit shall be displayed in the host facility where it is visible to patients receiving treatment.

(i) All applicants for mobile moderate conscious sedation permit shall be in good standing with the Board.

*History Note: Authority G.S. 90-28; 90-30; 90-30.1; 90-39; 90-48;
Recodified from 21 NCAC 16Q .0302(e)(f), Eff. November 1, 2013;
Amended Eff. June 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. August 1, 2018.*

21 NCAC 16Q .0305 ANNUAL RENEWAL OF MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION PERMIT REQUIRED

(a) Moderate conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by the dentist paying a one-hundred dollar (\$100.00) fee and completing the application requirements in this Rule. If the completed permit renewal application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.

(b) Itinerant moderate conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by paying a one-hundred dollar (\$100.00) fee and completing the application requirements in this Rule. If the completed permit renewal application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.

(c) Any dentist who fails to renew a moderate conscious sedation permit or itinerate moderate conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers moderate conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

(e) As a condition for renewal of the moderate conscious sedation permit and itinerate moderate conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rules .0302 and .0304 of this Section and shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which shall be counted toward fulfillment of the continuing education required each calendar year for license renewal:
 - (A) sedation;
 - (B) medical emergencies;
 - (C) monitoring IV sedation and the use of monitoring equipment;
 - (D) pharmacology of drugs and agents used in IV sedation;
 - (E) physical evaluation, risk assessment, or behavioral management; or

- (F) airway management;
- (2) unexpired ACLS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) Rule;
- (3) that the permit holder and all auxiliaries involved in sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;
- (4) that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and
- (5) that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a moderate conscious sedation permit or itinerate moderate conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48;
Eff. June 1, 2017;
Amended Eff. August 1, 2018.*

21 NCAC 16Q .0306 PROCEDURE FOR MODERATE CONSCIOUS SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION

- (a) When an evaluation or on-site inspection is required, the Board shall designate one or more qualified persons to serve as evaluators each of whom has administered moderate conscious sedation for at least three years preceding the inspection. Training in moderate conscious sedation shall not be counted in the three years.
- (b) An inspection fee of two-hundred seventy-five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers moderate conscious sedation.
- (c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.
- (d) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail."
- (e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.
- (f) An applicant who fails an inspection or evaluation shall not receive a permit to administer moderate conscious sedation. If a permit holder's facility fails an inspection, no further moderate sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.
- (g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in subsection (h) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.
- (h) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.
- (i) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.
- (j) An applicant must complete all the requirements of Rule .0302, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48;
Eff. April 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. February 1, 2019; August 1, 2018.*

SECTION .0400 - ENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0401 MINIMAL CONSCIOUS SEDATION CREDENTIALS, EVALUATION AND PERMIT

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a certified registered nurse anesthetist to administer minimal conscious sedation, the dentist shall obtain a Board-issued permit for minimal conscious sedation, moderate pediatric conscious sedation, moderate conscious sedation or general anesthesia. A permit is not required for prescription administration of DEA controlled drugs prescribed for postoperative pain control intended for home use. A dentist may obtain a minimal conscious sedation permit from the Board by completing the application requirements of this Rule and paying a fee of three-hundred seventy-five dollars (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. Such permit must be renewed annually and shall be displayed with the current renewal at all times in the facility of the permit holder where it is visible to patients receiving treatment.

(b) Only a dentist who holds a general anesthesia license may administer deep sedation or general anesthesia.

(c) An applicant for a minimal conscious sedation permit shall be licensed and in good standing with the Board in order to be approved. For purposes of these Rules "good standing" means that the applicant is not subject to a disciplinary investigation and his or her licensee has not been revoked or suspended and is not subject to a probation or stayed suspension order.

(d) Evaluation:

- (1) Prior to issuance of a minimal conscious sedation permit the applicant shall pass an evaluation and a facility inspection.
- (2) During an inspection or evaluation, the applicant shall demonstrate the administration of minimal conscious sedation on a patient while the evaluator observes. During the observation, the applicant shall demonstrate competency in the following areas:
 - (A) Monitoring of blood pressure, pulse, pulse oximetry and respiration;
 - (B) Drug dosage and administration;
 - (C) Treatment of untoward reactions including respiratory or cardiac depression (by verbal demonstration);
 - (D) Sterile technique;
 - (E) Use of BLS certified auxiliaries;
 - (F) Monitoring of patient during recovery; and
 - (G) Sufficiency of patient recovery time.
- (3) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
 - (A) Laryngospasm;
 - (B) Bronchospasm;
 - (C) Emesis and aspiration;
 - (D) Respiratory depression and arrest;
 - (E) Angina pectoris;
 - (F) Myocardial infarction;
 - (G) Hypertension/Hypotension;
 - (H) Syncope;
 - (I) Allergic reactions;
 - (J) Convulsions;
 - (K) Bradycardia;
 - (L) Hypoglycemia;
 - (M) Cardiac arrest; and
 - (N) Airway obstruction.
- (4) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Subparagraphs (d)(2) and (d)(3) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Subparagraph (d)(7) of this Rule.

- (5) The evaluator shall assign a recommended grade of pass or fail and shall report his or her recommendation to the Board, setting out the basis for his conclusion. The Board is not bound by the evaluator's recommendation and shall make a final determination regarding whether the applicant has passed the evaluation. The applicant shall be notified of the Board's decision in writing.
 - (6) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Subparagraph (d)(7) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.
 - (7) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.
 - (8) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.
 - (9) An applicant must complete all the requirements of this Rule, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.
- (e) Educational/Professional Requirements:
- (1) The dentist applying for a minimal conscious sedation permit shall meet one of the following criteria:
 - (A) completion of an ADA accredited post-doctoral training program which affords comprehensive training necessary to administer and manage minimal conscious sedation;
 - (B) completion of an 18-hour minimal conscious sedation course which must be approved by the Board based on whether it affords comprehensive training necessary to administer and manage minimal conscious sedation; or
 - (C) completion of an ADA accredited postgraduate program in pediatric dentistry;
 - (2) All applicants for a minimal sedation permit must document completion of an ACLS course within the 12 months prior to the date of application;
 - (3) The permit holder shall maintain written emergency and patient discharge protocols. The permit holder shall also provide training to familiarize auxiliaries in the treatment of clinical emergencies.
- (f) Annual Permit Renewal:
- (1) Minimal conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by the dentist paying a one-hundred dollar (\$100.00) fee and completing the application requirements in this Rule. If the completed permit renewal application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.
 - (2) Any dentist who fails to renew a minimal conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.
 - (3) As a condition for renewal of the minimal conscious sedation permit, the permit holder shall meet the requirements of Rule .0402 of this Subchapter and shall document unexpired ACLS certification and obtain three hours of continuing education every year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:
 - (A) pediatric or adult sedation;
 - (B) medical emergencies;
 - (C) monitoring sedation and the use of monitoring equipment;
 - (D) pharmacology of drugs and agents used in sedation;
 - (E) physical evaluation, risk assessment, or behavioral management; or

- (F) airway management.
- (4) The minimal conscious sedation permit holder shall further document that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year and that all auxiliaries involved in sedation procedures have completed BLS certification and, within the past two years, completed three hours of continuing education in any of the areas set forth in Parts (f)(3)(A)-(F) of this Rule.
- (5) All permit holders applying for renewal of a minimal conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.
- (g) A dentist who administers minimal conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39;
Temporary Adoption Eff. March 13, 2003; December 11, 2002;
Eff. August 1, 2004;
Amended Eff. July 3, 2008;
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Amended Eff. February 1, 2019.*

21 NCAC 16Q .0402 MINIMAL CONSCIOUS SEDATION PERMIT REQUIREMENTS, CLINICAL PROVISIONS AND EQUIPMENT

- (a) Minimal conscious sedation is indicated for use only as defined in Rule .0101(15) of this Subchapter (relating to Definitions). Minimal conscious sedation shall not be used to achieve a deeper level of sedation.
- (b) A minimal conscious sedation permit is not required for Schedule IV agents used for anxiolysis prescribed for administration outside of the dental office when a dentist determines that the patient is capable of following pre-procedure instructions. Medication administered for the purpose of minimal conscious sedation shall not exceed the maximum doses recommended by the drug manufacturer, sedation textbooks, or juried sedation journals. Except for nitrous inhalation, drugs in combination are not permitted for minimal conscious sedation. During longer periods of minimal conscious sedation, in which the amount of time of the procedures exceeds the effective duration of the sedative effect of the drug used, the incremental doses of the sedative shall not exceed total safe dosage levels based on the effective half-life of the drug used.
- (c) Each dentist shall:
 - (1) adhere to the clinical requirements as detailed in Paragraph (e) of this Rule;
 - (2) maintain under continuous direct supervision any auxiliary personnel, who shall be capable of assisting in procedures, problems, and emergencies incident to the use of minimal conscious sedation or secondary to an unexpected medical complication;
 - (3) utilize auxiliary personnel for each procedure performed who shall document annual completion of basic life support training; and
 - (4) not allow a minimal conscious sedation procedure to be performed in his or her office by a Certified Registered Nurse Anesthetist (CRNA) unless the dentist holds a permit issued by the Board for the procedure being performed. This provision addresses dentists and is not intended to address the scope of practice of persons licensed by any other agency.
- (d) Each dentist shall meet the following requirements:
 - (1) Patient Evaluation. Patients who are administered minimal conscious sedation must be evaluated for medical health risks prior to the start of any sedative procedure. A patient receiving minimal conscious sedation must be healthy or medically stable (ASA I, or ASA II as defined by the American Society of Anesthesiologists). An evaluation is a review of the patient's current medical history and medication use. However, for individuals who are not medically stable or who have a significant health disability Physical Status III (ASA III, as defined by the American Society of Anesthesiologists) a consultation with their primary care physician or consulting medical specialist regarding potential procedure risk is required.
 - (2) Pre-procedure preparation, informed consent:
 - (A) The patient or guardian must be advised of the procedure associated with the delivery of the minimal conscious sedation.
 - (B) Equipment must be evaluated and maintained for operation.

- (C) Baseline vital signs shall be obtained at the discretion of the operator depending on the medical status of the patient and the nature of the procedure to be performed.
- (D) Dentists administering minimal conscious sedation shall use sedative agents that he or she is competent to administer and shall administer such agents in a manner that is within the standard of care.

(e) Patient monitoring shall be conducted as follows:

- (1) Patients who have been administered minimal conscious sedation shall be monitored during waiting periods prior to operative procedures. An adult who has accepted responsibility for the patient and been given written pre-procedural instruction may provide such monitoring. The patient shall be monitored for alertness, responsiveness, breathing and skin coloration.
- (2) Dentists administering minimal conscious sedation shall maintain direct supervision of the patient during the operative procedure and for such a period of time necessary to establish pharmacologic and physiologic vital sign stability.
 - (A) Oxygenation. Color of mucosa, skin or blood shall be evaluated throughout the sedation procedure. Oxygen saturation shall be evaluated continuously by pulse oximetry, except as provided in Paragraph (e)(4) of this Rule.
 - (B) Ventilation. Observation of chest excursions or auscultation of breath sounds or both shall be performed.
 - (C) Circulation. Blood pressure and pulse shall be taken and recorded initially and thereafter as appropriate except as provided in Paragraph (e)(4) of this Rule.
 - (D) AED. Dentists administering minimal conscious sedation shall maintain a functioning automatic external defibrillator (AED).
- (3) A time oriented anesthetic record of vital signs shall be maintained in the permanent record including documentation of individual(s) administering the drug and showing the name of drug, strength and dosage used.
- (4) If the dentist responsible for administering minimal conscious sedation must deviate from the requirements set out in this Rule, he or she shall document the occurrence of such deviation and the reasons for such deviation.

(f) Post-operative procedures:

- (1) Following the operative procedure, positive pressure oxygen and suction equipment shall be available in the recovery area or operatory.
- (2) the permit holder or a BLS certified auxiliary under his or her direct supervision shall monitor the patient's vital signs throughout the sedation procedure until the patient is recovered as defined in Subparagraph (f)(4) of this Rule and is ready for discharge from the office.
- (3) Patients who have adverse reactions to minimal conscious sedation shall be assisted and monitored either in an operatory chair or recovery area until stable for discharge.
- (4) Recovery from minimal conscious sedation shall include:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the patient who is disabled, or incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (5) Prior to allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Paragraph (f)(4) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color and level of consciousness are sufficient and stable and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a person responsible for the patient at the time of discharge;
 - (C) a person authorized by the patient must be available to transport the patient and for patients for whom a motor vehicle restraint system is required, an additional individual must be available to attend to the patient.

(g) The dentist, personnel and facility shall be prepared to treat emergencies that may arise from the administration of minimal conscious sedation, and shall have the ability to provide positive pressure ventilation with 100% oxygen with an age appropriate device.

History Note: Authority G.S. 90-28; 90-30.1;
Temporary Adoption Eff. December 11, 2002;
Eff. August 1, 2004;
Amended Eff. July 3, 2008;
Readopted Eff. February 1, 2019.

21 NCAC 16Q .0403 TEMPORARY APPROVAL PRIOR TO SITE INSPECTION

History Note: Authority G.S. 90-28; 90-30.1.
Temporary Adoption Eff. March 13, 2003; December 11, 2002;
Eff. August 1, 2004;
Amended Eff. February 1, 2009; July 3, 2008;
Repealed Eff. April 1, 2016.

21 NCAC 16Q .0404 CREDENTIALS AND PERMITS FOR MODERATE PEDIATRIC CONSCIOUS SEDATION

(a) Before a dentist licensed to practice in North Carolina may administer moderate pediatric conscious sedation, the dentist shall obtain a general anesthesia or moderate pediatric conscious sedation permit from the Board by completing the application requirements of this Rule and paying a fee of three hundred seventy-five dollars (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

(b) A dentist applying for a permit to administer moderate pediatric conscious sedation shall hold an unexpired PALS certification and meet at least one of the following criteria:

- (1) completion of a postgraduate program that included pediatric intravenous conscious sedation training;
- (2) completion of a Commission On Dental Accreditation (CODA) approved pediatric residency that included intravenous conscious sedation training; or
- (3) completion of a pediatric degree or pediatric residency at a CODA approved institution that includes training in the use and placement of IVs or intraosseous vascular access. A list of CODA approved institutions that is hereby incorporated by reference, including subsequent amendments and editions, appears at www.ada.org/coda and is available at no cost.

(c) All applicants for moderate pediatric conscious sedation permits shall have completed the training required by Paragraph (b) of this Rule within the last two years or show evidence of moderate pediatric conscious sedation practice within the last two years in another state or U.S. Territory.

(d) All applicants for moderate pediatric conscious sedation permits shall be in good standing with the Board.

(e) Prior to issuance of a moderate pediatric conscious sedation permit, the applicant shall pass an evaluation and a facility inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her facility.

(f) A moderate pediatric conscious sedation permit holder may provide moderate pediatric conscious sedation at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the moderate pediatric conscious sedation is administered has been inspected and complies with the requirements set out in Rule .0405 of this Section. The permit holder shall also obtain an itinerant moderate pediatric conscious sedation permit and comply with the requirements of Rule .0406 of this Section.

History Note: Authority G.S. 90-30.1; 90-39; 90-48;
Eff. June 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. February 1, 2019; August 1, 2018.

21 NCAC 16Q .0405 MODERATE PEDIATRIC CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist administering moderate pediatric conscious sedation shall ensure that the facility where the sedation is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
 - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
 - (B) a CPR board or a dental chair without enhancements, suitable for providing emergency treatment;
 - (C) lighting as necessary for specific procedures and back-up lighting;
 - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
 - (E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;
 - (F) small, medium, and large oral and nasal airways;
 - (G) blood pressure monitoring device;
 - (H) EKG monitor;
 - (I) pulse oximeter;
 - (J) automatic external defibrillator (AED);
 - (K) precordial stethoscope or capnograph;
 - (L) thermometer;
 - (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
 - (N) laryngoscope with working batteries;
 - (O) intubation forceps and advanced airway devices;
 - (P) tonsillar suction with back-up suction;
 - (Q) syringes as necessary for specific procedures; and
 - (R) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) antiarrhythmic;
 - (D) antihistamine;
 - (E) antihypertensive;
 - (F) bronchodilator;
 - (G) antihypoglycemic agent;
 - (H) vasopressor;
 - (I) corticosteroid;
 - (J) anticonvulsant;
 - (K) muscle relaxant;
 - (L) appropriate reversal agents;
 - (M) nitroglycerine;
 - (N) antiemetic; and
 - (O) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge protocols. The permit holder shall also provide training to familiarize auxiliaries in the treatment of clinical emergencies;
- (4) The following records are maintained for at least 10 years:
 - (A) patient's current written medical history and pre-operative assessment;
 - (B) drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration;
 - (C) a sedation record; and
 - (D) a consent form, signed by the patient or a guardian, identifying the procedure, risks and benefits, level of sedation, and date signed;
- (5) The sedation record shall include:

- (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO₂ if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
 - (B) procedure start and end times;
 - (C) gauge of needle and location of IV on the patient, if used;
 - (D) status of patient upon discharge; and
 - (E) documentation of complications or morbidity; and
- (6) The following conditions shall be satisfied during a sedation procedure:
- (A) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding sedation throughout the sedation procedure and is not performing the surgery or other dental procedure; and
 - (B) when IV sedation is used, IV infusion shall be administered before the commencement of the procedure and maintained until the patient is ready for discharge.
- (b) During an inspection or evaluation, applicants and permit holders who use intravenous sedation shall demonstrate the administration of moderate pediatric conscious sedation on a live patient, including the deployment of an intravenous delivery system, while the evaluator observes. Applicants and permit holders who do not use IV sedation shall describe the proper deployment of an intravascular delivery system to the evaluator and shall demonstrate the administration of moderate pediatric conscious sedation on a live patient while the evaluator observes.
- (c) During the demonstration, all applicants and permit holders shall demonstrate competency in the following areas:
- (1) monitoring blood pressure, pulse, and respiration;
 - (2) drug dosage and administration;
 - (3) treatment of untoward reactions including respiratory or cardiac depression if applicable;
 - (4) sterile technique;
 - (5) use of BLS certified auxiliaries;
 - (6) monitoring of patient during recovery; and
 - (7) sufficiency of patient recovery time.
- (d) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency in the treatment of the following clinical emergencies:
- (1) laryngospasm;
 - (2) bronchospasm;
 - (3) emesis and aspiration;
 - (4) respiratory depression and arrest;
 - (5) angina pectoris;
 - (6) myocardial infarction;
 - (7) hypertension and hypotension;
 - (8) allergic reactions;
 - (9) convulsions;
 - (10) syncope;
 - (11) bradycardia;
 - (12) hypoglycemia;
 - (13) cardiac arrest; and
 - (14) airway obstruction.
- (e) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Paragraphs (c) and (d) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Rule .0408(h) of this Section.
- (f) A moderate pediatric conscious sedation permit holder shall evaluate patients for health risks before starting any sedation procedure as follows:
- (1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use; or

- (2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by a consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the procedure.
- (g) Patient monitoring:
- (1) Patients who have been administered moderate pediatric conscious sedation shall be monitored for alertness, responsiveness, breathing, and skin coloration during waiting periods before operative procedures.
 - (2) The permit holder or a BLS certified auxiliary under his or her direct supervision shall monitor the patient's vital signs throughout the sedation procedure until the patient is recovered as defined in Subparagraph (g)(3) of this Rule and is ready for discharge from the office.
 - (3) Recovery from moderate pediatric conscious sedation shall include documentation of the following:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the special needs patient or a patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
 - (4) Before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (g)(3) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color, and level of consciousness are stable, and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to a person responsible for the patient at time of discharge; and
 - (C) a person responsible for the patient is available to transport the patient after discharge, and for the patient for whom a motor vehicle restraint system is required, an additional responsible individual is available to attend to the patient.

History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. June 1, 2017; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. February 1, 2019; August 1, 2018.

21 NCAC 16Q .0406 ITINERANT (MOBILE) MODERATE PEDIATRIC CONSCIOUS SEDATION PERMITS

- (a) A dentist who holds a moderate pediatric conscious sedation permit from the Board and who wishes to provide moderate pediatric conscious sedation or other sedation services in the office of another practitioner shall obtain a mobile moderate pediatric conscious sedation permit from the Board by completing the application requirements of this Rule and paying a one hundred dollar (\$100.00) application fee and a two-hundred seventy-five dollar (\$275.00) inspection fee. No mobile permit shall be required to administer moderate pediatric conscious sedation in a hospital or credentialed surgery center.
- (b) The permit holder shall maintain in good working order the equipment required by Rule .0405(a)(1) of this Section.
- (c) The unexpired medications required by Rule .0405(a)(2) of this Section shall be on site and available to the permit holder.
- (d) Before a mobile moderate pediatric sedation permit may be issued, a permit holder appointed by the Board shall inspect the applicant's equipment and medications to ensure that they comply with Paragraphs (b) and (c) of this Rule. The evaluation and on-site inspection shall be conducted as set out in Rule .0405 of this Section.

(e) Prior to administering moderate pediatric conscious sedation or other sedation services at another provider's office, the mobile permit holder shall inspect the host facility within 24 business hours before each procedure and shall ensure that:

- (1) the operator's size and design permit emergency management and access of emergency equipment and personnel;
- (2) there is a CPR board or dental chair without enhancements suitable for providing emergency treatment;
- (3) there is lighting to permit performance of all procedures planned for the facility;
- (4) there is suction equipment, including non-electrical back-up suction; and
- (5) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording moderate pediatric conscious sedation or other sedation services data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(f) Upon inspection, the permit holder shall document that the facility where the sedation procedure will be performed was inspected and that it met the requirements of Paragraph (e) of this Rule. The permit holder shall retain the inspection and compliance record required by this Paragraph for 10 years following the procedure and provide these records to the Board upon request.

(g) The mobile moderate pediatric conscious sedation permit shall be displayed in the host facility where it is visible to patients receiving treatment.

(h) All applicants for a mobile moderate pediatric conscious sedation permit shall be in good standing with the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48;
Eff. June 1, 2017;
Amended Eff. August 1, 2018.*

21 NCAC 16Q .0407 ANNUAL RENEWAL OF MODERATE PEDIATRIC CONSCIOUS SEDATION PERMIT REQUIRED

(a) Moderate pediatric conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by the dentist paying a one-hundred dollar (\$100.00) fee and completing the application requirements in this Rule.

If the completed renewal application and renewal fee are not received before January 31 of each year, a fifty (\$50.00) dollar late fee shall be paid.

(b) Itinerant moderate pediatric conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by paying a one-hundred dollar (\$100.00) fee and completing the application requirements in this Rule. If the completed permit renewal application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.

(c) Any dentist who fails to renew a moderate pediatric conscious sedation permit or itinerant moderate pediatric conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers moderate pediatric conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

(e) As a condition for renewal of the moderate pediatric conscious sedation permit and itinerant moderate pediatric conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0405 of this Section and shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which shall be counted toward fulfillment of the continuing education required each calendar year for license renewal:
 - (A) sedation;
 - (B) medical emergencies;
 - (C) monitoring IV sedation and the use of monitoring equipment;
 - (D) pharmacology of drugs and agents used in IV sedation;
 - (E) physical evaluation, risk assessment, or behavioral management; or

- (F) airway management;
- (2) unexpired PALS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) of this rule;
- (3) that the permit holder and all auxiliaries involved in sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;
- (4) that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and
- (5) that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a moderate pediatric conscious sedation permit or itinerant moderate pediatric conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48;
Eff. June 1, 2017;
Amended Eff. August 1, 2018.*

21 NCAC 16Q .0408 PROCEDURE FOR MODERATE PEDIATRIC SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION

- (a) When an evaluation or on-site inspection is required, the Board shall designate one or more qualified persons to serve as evaluators, each of whom has administered moderate pediatric sedation for at least three years preceding the evaluation or inspection. Training in moderate pediatric sedation shall not count toward the three years.
- (b) An inspection fee of two-hundred seventy-five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers moderate pediatric sedation.
- (c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.
- (d) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail."
- (e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.
- (f) An applicant who fails an inspection or evaluation shall not receive a permit to administer moderate pediatric sedation. If a permit holder's facility fails an inspection, no further moderate pediatric sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.
- (g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in subsection (h) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.
- (h) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.
- (i) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.
- (j) An applicant must complete all the requirements of Rule. 0405, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48;
Eff. April 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. February 1, 2019; August 1, 2018.*

SECTION .0500 - RENEWAL OF PERMITS

21 NCAC 16Q .0501 ANNUAL RENEWAL REQUIRED

History Note: Authority G.S. 90-28; 90-30.1; 90-48;
Eff. February 1, 1990;
Amended Eff. August 1, 2002;
Transferred and Recodified from 16Q .0401 to 16Q .0501;
Temporary Amendment Eff. December 11, 2002;
Amended Eff. November 1, 2013; July 3, 2008; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. August 1, 2018;
Repealed Eff. February 1, 2019.

21 NCAC 16Q .0502 PAYMENT OF FEES

History Note: Authority G.S. 90-28; 90-30.1;
Eff. February 1, 1990;
Transferred and Recodified from 16Q .0402 to .0502;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Repealed Eff. August 1, 2018.

21 NCAC 16Q .0503 INSPECTION AUTHORIZED

Incident to the renewal of an anesthesia or sedation permit or any itinerant permit, in order to ensure compliance, the Board may require an on-site inspection of the dentist's facility, equipment, personnel, and procedures. The inspection shall be conducted in accordance with the applicable rules of this Subchapter.

History Note: Authority G.S. 90-28; 90-30.1;
Eff. February 1, 1990;
Amended Eff. January 1, 1994;
Transferred and Recodified from 16Q .0403 to 16Q .0503;
Temporary Amendment Eff. December 11, 2002;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. August 1, 2018.

SECTION .0600 - REPORTING AND PENALTIES

21 NCAC 16Q .0601 REPORTS OF ADVERSE OCCURRENCES

21 NCAC 16Q .0602 FAILURE TO REPORT

History Note: Authority G.S. 90-28; 90-30.1; 90-41;
Eff. February 1, 1990;
Transferred and Recodified from 16Q .0501 to 16Q .0601;
Transferred and Recodified from 16Q .0502 to 16Q .0602;
Temporary Amendment Eff. December 11, 2002;
Amended Eff. August 1, 2004;
Repealed Eff. April 1, 2016.

SECTION .0700 - PENALTY FOR NON-COMPLIANCE

21 NCAC 16Q .0701 FAILURE TO COMPLY

Failure to comply with the provisions of this Subchapter may result in suspension or revocation of the permit and/or the dentist's license to practice dentistry in accordance with G.S. 90-41.

*History Note: Authority G.S. 90-28; 90-30.1; 90-41;
Eff. February 1, 1990;
Transferred and Recodified from 16Q .0601 to 16Q .0701;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16Q .0703 REPORTS OF ADVERSE OCCURRENCES

(a) A dentist who holds a permit to administer general anesthesia or sedation shall report to the Board within 72 hours after each adverse occurrence related to the administration of general anesthesia or sedation that results in the death of a patient within 24 hours of the procedure. Sedation permit holders shall cease administration of sedation until the Board has investigated the death and approved resumption of permit privileges. General anesthesia permit holders shall cease administration of general anesthesia and sedation until the Board has reviewed the incident report and approved resumption of permit privileges.

(b) A dentist who holds a permit to administer general anesthesia or sedation shall report to the Board within 30 days after each adverse occurrence related to the administration of general anesthesia or sedation that results in permanent organic brain dysfunction of a patient occurring within 24 hours of the procedure or that results in physical injury or severe medical emergencies, causing hospitalization of a patient occurring within 24 hours of the procedure.

(c) The adverse occurrence report shall be in writing and shall include the following:

- (1) dentist's name, license number and permit number;
- (2) date and time of the occurrence;
- (3) facility where the occurrence took place;
- (4) name and address of the patient;
- (5) surgical procedure involved;
- (6) type and dosage of sedation or anesthesia utilized in the procedure;
- (7) circumstances involved in the occurrence; and
- (8) anesthesia records.

(d) Upon receipt of any such report, the Board shall investigate and shall take disciplinary action if the evidence demonstrates that a licensee has violated the Dental Practice Act set forth in Article 2 of G.S. 90 or the Board's rules of this Chapter.

*History Note: Authority G.S. 90-28; 90-30.1; 90-41; 90-48;
Eff. April 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SUBCHAPTER 16R – ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION REQUIREMENTS: DENTIST

SECTION .0100 - RENEWAL OF LICENSE

21 NCAC 16R .0101 APPLICATIONS

(a) A renewal application for a dental license shall be submitted electronically before midnight on January 31 of each year through the Board's website: www.ncdentalboard.org. The renewal application shall include:

- (1) dental license number;
- (2) full name;
- (3) mailing address;
- (4) telephone number;
- (5) fax number;
- (6) email address;
- (7) citizenship or immigration status, with verifying documentation;

- (8) whether, during the calendar year preceding the application, the licensee has:
 - (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
 - (H) been disciplined by any professional licensing board; or
 - (I) had a malpractice suit settled or pending against the licensee;
 - (9) whether the licensee has been investigated for employee misclassification as an independent contractor within the five years preceding the application;
 - (10) employment status as a dentist as of the date of the application, including:
 - (A) whether the licensee is currently working as a dentist;
 - (B) primary practice area;
 - (C) name of the practice in which the licensee provides services;
 - (D) primary setting in which the licensee provides services;
 - (E) number of hours the licensee works in an average week;
 - (F) whether the licensee is self-employed;
 - (G) if not self-employed, the type of employer for which the licensee works; and
 - (H) if self-employed, the number of dentists, hygienists, and dental assistants working in the licensee's practice;
 - (11) a report of the licensee's completion of continuing education hours related to clinical patient care during the calendar year preceding the application, or the licensee's exemption from reporting;
 - (12) whether the licensee is enrolled in or completed a residency program during the calendar year preceding the application;
 - (13) whether the licensee holds an unexpired CPR certification;
 - (14) whether the licensee employed dental hygienists as limited supervision hygienists as set forth in 21 NCAC 16Z during the calendar year preceding the application;
 - (15) whether the licensee is registered with and using the N.C. Controlled Substances Reporting System as of the date of the application;
 - (16) whether the licensee has an active U.S. Drug Enforcement Administration license as of the date of the application to prescribe schedule II-IV controlled medications;
 - (17) whether the licensee has completed at least one hour of continuing education in controlled substance prescribing practices and controlled substance prescribing for chronic pain management during the calendar year preceding the application; and
 - (18) a written statement certifying that the information submitted is accurate to the best of the licensee's knowledge.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the licensee shall mail to the Board the following materials for review by the Board before the license will be renewed:
- (1) for each matter existing under Subparagraph (a)(8) of this Rule, a statement describing the nature, facts, and disposition of the matter, and include a copy, certified by the clerk of court or the applicable licensing board, of the disposition or judgment in the matter; and
 - (2) for each matter under Subparagraph (a)(9) of this Rule, documentation of the results of the investigation.
- (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule, accompanied by the renewal fees set forth in 21 NCAC 16M .0101, for the renewal application to be complete. If a renewal application is not complete, the license will not be renewed.

- (d) Eligible licensees shall be granted an extension period as set out in 21 NCAC 16B .0900 in which to pay renewal fees, obtain CPR certification, and comply with the Board's continuing education rules.
- (e) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-28; 90-31; 90-39; 93B-15;
Eff. April 1, 2003;
Amended Eff. July 1, 2015; February 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. September 1, 2020.

21 NCAC 16R .0102 FEE FOR LATE FILING AND DUPLICATE LICENSE

- (a) If the application for a renewal certificate, including all information and documentation set out in Rule .0101 of this Subchapter and accompanied by the renewal fees required by 21 NCAC 16M .0101, is not received in the Board's office before midnight on January 31 of each year, an additional fee for late renewal shall be charged as set out in 21 NCAC 16M .0101.
- (b) A fee shall be charged for each duplicate of any license or certificate issued by the Board as set out in 21 NCAC 16M .0101.

History Note: Authority G.S. 90-31; 90-39;
Eff. April 1, 2003;
Amended Eff. July 1, 2015; February 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. September 1, 2020.

- 21 NCAC 16R .0103 CONTINUING EDUCATION REQUIRED**
21 NCAC 16R .0104 APPROVED COURSES AND SPONSORS
21 NCAC 16R .0105 REPORTING OF CONTINUING EDUCATION
21 NCAC 16R .0106 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION
21 NCAC 16R .0107 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION

History Note: Authority G.S. 90-31.1; 90-38;
Eff. May 1, 1994;
Amended Eff. Amended Eff. November 1, 2008; September 1, 2008; February 1, 2008; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 1998.
Repealed Eff. July 1, 2015.

21 NCAC 16R .0108 LICENSE VOID UPON FAILURE TO TIMELY RENEW

If an application for a renewal certificate, including all information and documentation set out in Rule .0101 of this Subchapter and accompanied by the renewal and late filing fees required by 21 NCAC 16M .0101, is not received in the Board's office before midnight on March 31 of each year, the license shall become void and the applicant shall apply for reinstatement in accordance with 21 NCAC 16B .1101.

History Note: Authority G.S. 90-31; 90-34;
Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. September 1, 2020.

21 NCAC 16R .0110 RENEWAL CERTIFICATE MUST BE DISPLAYED

The current certificate of renewal of license for a dentist shall be posted where it is visible to patients receiving treatment in the office where the dentist is employed, and shall be exhibited or produced to the North Carolina State Board of Dental Examiners or its investigators during every visit to the office.

*History Note: Authority G.S. 90-33;
Eff. July 1, 2015;
Amended Eff. August 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SECTION .0200 - CONTINUING EDUCATION

21 NCAC 16R .0201 CONTINUING EDUCATION REQUIRED

- (a) Except as permitted in Rule .0204 of this Section as a condition of license renewal, every dentist shall complete a minimum of 15 clock-hours of continuing education each calendar year.
- (b) For licensees who prescribe controlled substances, one hour of the total required continuing education hours shall consist of a course designed to address prescribing practices, including instruction on controlled substance prescribing practices and controlled substance prescribing for chronic pain management.
- (c) Each applicant who receives an Instructor's license or a license to practice general dentistry after January 1, 2019, and who is actively engaged in the practice or teaching of dentistry in North Carolina shall take a six-hour course in professionalism and ethics in the first year that the applicant is required to meet the continuing education requirements of Paragraph (a) of this Rule.
- (1) The six-hour professionalism and ethics course shall be included in the 15 clock-hour requirement of Paragraph (a) of this Rule.
 - (2) The professionalism and ethics Course shall include segments addressing coding and billing, record keeping, informed consent, patient and staff boundaries, office management, duties delegable to dental auxiliaries, the American Dental Association's Code of Ethics, and professionalism.
 - (3) A dentist who receives a variance or exemption from continuing education requirements under 21 NCAC 16R .0204(a)(1),(3), or (4) shall be exempt from taking the professionalism and ethics course until such time as he or she resumes full practice. A dentist classified as a semi-retired Class II dentist shall complete the professionalism and ethics course.
- (d) Any or all of the hours may be acquired through self-study courses, provided that the self-study courses are related to clinical patient care and offered by a Board-approved sponsor listed in Rule .0202 of this Section. The dentist shall pass a test following every self-study course and obtain a certificate of completion.
- (e) Courses taken to maintain CPR certification shall not count toward the mandatory continuing education hours set forth in this Rule.

*History Note: Authority G.S. 90-31.1;
Eff. July 1, 2015;
Amended Eff. August 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. November 1, 2018; September 1, 2018.*

21 NCAC 16R .0202 APPROVED COURSES AND SPONSORS

- (a) Courses allowed to satisfy the continuing education requirement shall be related to clinical patient care. Hours devoted to financial issues or practice development topics shall not be counted toward the continuing education requirement. Hours spent reviewing dental journals, publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self-study courses as described in Rule .0201 of this Section offered by Board approved sponsors.
- (b) Approved continuing education course sponsors include:
- (1) those recognized by the Continuing Education Recognition Program of the American Dental Association;
 - (2) the Academy of General Dentistry;
 - (3) North Carolina Area Health Education Centers;
 - (4) educational institutions with dental, dental hygiene or dental assisting schools or departments;
 - (5) national, state or local societies or associations; and
 - (6) local, state or federal governmental entities.

*History Note: Authority G.S. 90-31.1;
Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16R .0203 REPORTING CONTINUING EDUCATION

(a) All licensed dentists shall report the number of continuing education hours completed annually on the license renewal application form submitted to the Board. The organization offering or sponsoring each course shall provide to each attendee a report containing the following information:

- (1) course title;
- (2) number of hours of instruction;
- (3) date of the course attended;
- (4) name(s) of the course instructor(s); and
- (5) name of the organization offering or sponsoring the course.

(b) Evidence of employment by or affiliation with an agency or institution as specified in Rule .0204(c) of this Section shall be verified by a director or official acting in a supervisory position.

(c) All licensed dentists shall maintain the report referred to in Paragraph (a) of this Rule for at least two years following completion of the course and shall produce a copy of the report to the Board or its investigator during every Board audit of the licensee's continuing education hours.

*History Note: Authority G.S. 90-31.1;
Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16R .0204 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION

(a) Upon receipt of written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in Rule .0201 of this Section as follows:

- (1) A dentist who practices not more than 250 clock hours in a calendar year shall be exempt from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, shall maintain current CPR certification.
- (2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be exempt from one half of the continuing education courses required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class II dentists, shall maintain current CPR certification.
- (3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education and CPR certification requirements.
- (4) A dentist who is unable to practice dentistry because of a physical or mental illness may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with Paragraph (a) of this Rule when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test before allowing the licensee to resume practice if there is evidence that the licensee is unable to practice dentistry competently, such as a failing score on a dental licensing examination, a written report of a licensed physician, evaluation conducted by a substance abuse treatment facility, appointment of a guardian for the dentist or adjudication of incompetence by a court.

(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:

- (1) service on a full-time basis on the faculty of an educational institution with involvement in education, training, or research in dental or dental auxiliary programs; or

- (2) service on a full time basis with a federal, state, or county government agency whose operation is related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule .0203 of this Section.
- (d) Dentists who work at least 20 hours per week in an institution or entity described in Subparagraph (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.
- (e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, city, or county operated site. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.
- (f) Eligible licensees as defined by Rule .0206 of this Section shall be granted a waiver of their mandatory continuing education requirements.

History Note: Authority G.S. 90-31.1; 90-38;
Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16R .0205 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION

If an applicant for a renewal of license fails to provide proof of completion of reported continuing education hours for the current year as required by Rule .0203 of this Section, the Board shall refuse to issue a renewal certificate until the licensee completes the required hours of education for the current year and complies with the requirements of Rules 21 NCAC 16R .0101 and .0102. If an applicant applies for credit for or exemption from continuing education hours and fails to provide the required documentation upon request, the Board shall refuse to issue a certificate of renewal until the applicant meets the qualifications for exemption or credit. If an applicant fails to meet the qualifications for renewal, including completing the required hours of continuing education and delivering the required documentation to the Board's office before midnight on March 31 of each year, the license shall become void and the licensee must seek reinstatement.

History Note: Authority G.S. 90-31.1;
Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16S - CARING DENTAL PROFESSIONALS PROGRAM

SECTION .0100 - GENERAL

21 NCAC 16S .0101 DEFINITIONS

The following definitions are applicable to impaired dentist programs established in accordance with G.S. 90-48.2:

- (1) "Board" -- the North Carolina State Board of Dental Examiners;
- (2) "Impairment" -- chemical dependency or mental illness;
- (3) "Board of Directors" -- individuals comprising the oversight panel consisting of representatives from the North Carolina Dental Society, the Board, licensed dental hygienists, and the UNC School of Dentistry established to function as a supervisory body to the North Carolina Caring Dental Professionals;
- (4) "Director" -- the person designated by the Board of Directors to organize and coordinate the activities of the North Carolina Caring Dental Professionals;
- (5) "North Carolina Caring Dental Professionals" -- the program established through agreements between the Board and special impaired dentist peer review organizations formed by the North Carolina Dental Society made up of Dental Society members designated by the Society, the Board, a licensed dental hygienist upon recommendation of the dental hygienist member of the Board, and the UNC School of Dentistry to conduct peer review activities as provided in G.S. 90-48.2(a).
- (6) "North Carolina Caring Dental Professionals members" -- the two hygienists appointed by the Dental Board and volunteer Dental Society members selected by the Board of Directors from peer

review organizations to serve as parties to interventions, to direct impaired dentists into treatment, and as monitors of those individuals receiving treatment. Peer liaisons and volunteers participating in programs for impaired dental hygienists shall be dental hygienists.

*History Note: Authority G.S. 90-48; 90-48.2; 90-48.3;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. July 1, 2015; April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16S .0102 BOARD AGREEMENTS WITH PEER REVIEW ORGANIZATIONS

The Board may enter into agreements with special impaired dentist peer review organizations, pursuant to G.S. 90-48.2, to establish the North Carolina Caring Dental Professionals to be supervised by the Board of Directors. Such agreements shall provide for:

- (1) investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practice and practice patterns of licensed dentists and dental hygienists as may relate to impaired dentists and dental hygienists;
- (2) identification, intervention, treatment, referral, and follow up care of impaired dentists and dental hygienists; and
- (3) due process rights for any subject dentist or dental hygienist.

*History Note: Authority G.S. 90-48; 90-48.2; 90-48.3;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. July 1, 2015; April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SECTION .0200 - GUIDELINES FOR PROGRAM ELEMENTS

21 NCAC 16S .0201 RECEIPT AND USE OF INFORMATION OF SUSPECTED IMPAIRMENT

(a) Information concerning suspected impairment may be received by the North Carolina Caring Dental Professionals through any of the following sources:

- (1) reports of physicians, psychologists or counselors;
- (2) reports from family members, staff or other individuals;
- (3) self-referral; or
- (4) referral by the Board.

(b) When information of suspected impairment is received, the Program shall conduct an investigation and routine inquiries to determine the validity of the report.

(c) Dentists and dental hygienists suspected of impairment may be required to submit to personal interviews if the investigation and inquiries indicate the report of impairment may be valid.

*History Note: Authority G.S. 90-48; 90-48.2; 90-48.3;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16S .0202 CONFIDENTIALITY

Information received by the Program regarding voluntary participants shall remain confidential and shall not be released to the Dental Board or members of the public, except as set out in Rule .0203(b) of this Section. Voluntary participants who meet the requirements of Rule .0203(b) of this Section shall be reported to the Board along with evidence of the events leading to the report. Information received about participants referred to the Program by the Board shall be exchanged with the Board or its investigators.

History Note: Authority G.S. 90-48; 90-48.2;
Eff. April 1, 1994;
Amended Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16S .0203 INTERVENTION AND REFERRAL

- (a) Following an investigation, if an impairment is determined to exist and confirmed, an intervention shall be conducted using specialized techniques designed to assist the dentist or dental hygienist in acknowledging responsibility for dealing with the impairment. The dentist or dental hygienist shall be referred to an appropriate treatment source.
- (b) Following an investigation, intervention, treatment, or upon receipt of a complaint or other information, a peer review organization participating in the North Carolina Caring Dental Professionals shall report to the Board detailed information about any dentist or dental hygienist licensed by the Board, if it is determined that:
- (1) the dentist or dental hygienist constitutes an imminent danger to the public or himself or herself;
 - (2) the dentist or dental hygienist refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or
 - (3) it reasonably appears that there are other grounds for disciplinary action.
- (c) Program members may consult with medical professionals and treatment sources as necessary in carrying out the Program's directives.
- (d) Interventions shall be arranged and conducted as expeditiously as possible. When interventions are conducted as a direct result of a Board-initiated referral, a Board representative may be present.
- (e) Treatment sources shall be evaluated and determined applicable before an individual is referred for treatment, and any treatment contracts or aftercare agreements shall be documented and recorded by the Program.

History Note: Authority G.S. 90-48; 90-48.2; 90-48.3;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16S .0204 MONITORING TREATMENT

A treatment source or facility receiving referrals from the Program shall be continually monitored to determine its ability to provide:

- (1) adequate medical and non-medical staffing;
- (2) appropriate treatment;
- (3) affordable treatment;
- (4) adequate facilities; and
- (5) appropriate post-treatment support.

History Note: Authority G.S. 90-48; 90-48.2;
Eff. April 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16S .0205 MONITORING REHABILITATION AND PERFORMANCE AFTER TREATMENT

- (a) Program members shall monitor dentists and dental hygienists following treatment. Testing for impairment shall be conducted until rehabilitation has been accomplished.
- (b) Treatment sources shall submit reports to the Director concerning a dentist's or dental hygienist's rehabilitation and performance.
- (c) Impaired dentists and dental hygienists shall submit to periodic personal interviews before the Director or Program members designated by the Director; or, for those referred to the Program by the Board, before the Board's

agents. The frequency of personal interviews shall be determined by the dentist's or dental hygienist's ability to accomplish rehabilitation and adequately perform after treatment.

(d) Complete records shall be maintained by the Program on all dentists and dental hygienists reporting for assistance, treatment, or monitoring and such records shall remain confidential in accordance with G.S. 90-48.2(e).

(e) The Program shall maintain statistical information regarding impairment, to be reported to the Board periodically, but no less than once a year.

(f) The Program shall compile and report information periodically to the Board regarding investigations, reports, complaints, intervention, treatment, referral, rehabilitation and follow up care of impaired dentists and dental hygienists. Such reports shall not identify the subject dentist or dental hygienist unless the dentist or dental hygienist was referred by the Board or a determination under Rule .0203(b) of this Section has been made.

*History Note: Authority G.S. 90-48; 90-48.2;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SUBCHAPTER 16T – PATIENT RECORDS

SECTION .0100 – PATIENT RECORDS

21 NCAC 16T .0101 RECORD CONTENT

A dentist shall maintain treatment records on all patients for a period of 10 years from the last treatment date, except that work orders must only be maintained for a period of two years. Treatment records may include such information as the dentist deems appropriate but shall include:

- (1) the patient's full name, address, and treatment dates;
- (2) the patient's emergency contact or responsible party;
- (3) a current health history;
- (4) the diagnosis of condition;
- (5) the treatment rendered and by whom;
- (6) the name and strength of any medications prescribed, dispensed, or administered along with the quantity and date provided;
- (7) the work orders issued;
- (8) the treatment plans for patients of record, except that treatment plans are not required for patients seen only on an emergency basis;
- (9) the diagnostic radiographs, orthodontic study models, and other diagnostic aids, if taken;
- (10) the patient's financial records and copies of all insurance claim forms;
- (11) the rationale for prescribing each narcotic; and
- (12) A written record that the patient gave informed consent consistent with Rule .0103 of this Section.

*History Note: Authority G.S. 90-28; 90-48;
Eff. October 1, 1996;
Amended Eff. May 1, 2016; July 1, 2015;
Readopted Eff. January 1, 2019.*

21 NCAC 16T .0102 TRANSFER OF RECORDS UPON REQUEST

A dentist shall, upon request by the patient of record, provide all information required by the Health Insurance Portability and Accountability Act (HIPAA) and this Rule, including original or diagnostic copies of radiographs and a legible copy of all treatment records to the patient or to a licensed dentist identified by the patient. The dentist may charge a fee not exceeding the actual cost of duplicating the records. The records shall be provided within 30 days of the request and production shall not be contingent upon current, past or future dental treatment or payment of services.

History Note: Authority G.S. 90-28; 90-48;
Eff. October 1, 1996;
Amended Eff. July 1, 2015; April 1, 2014; November 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16T .0103 INFORMED CONSENT

(a) To obtain informed consent to a specific procedure or treatment to be provided, the dentist shall discuss with a patient or other person authorized by the patient or by law to give informed consent on behalf of the patient, prior to any treatment or procedure, information sufficient to permit the patient or authorized person to understand:

- (1) the condition to be treated;
- (2) the specific procedures and treatments to be provided;
- (3) the anticipated results of the procedures and treatments to be provided;
- (4) the risks and hazards of the procedures or treatments to be provided that are recognized by dentists engaged in the same field of practice;
- (5) the risks of foregoing the proposed treatments or procedures; and
- (6) alternative procedures or treatment options;

(b) A dentist is not required to obtain informed consent if:

- (1) treatment is rendered on an emergency basis; and
- (2) the patient is incapacitated.

History Note: Authority G.S. 90-28; 90-48;
Eff. January 1, 2019.

SUBCHAPTER 16U - INVESTIGATIONS

SECTION .0100 - PROCEDURES

21 NCAC 16U .0101 SECRETARY-TREASURER

The Board's Secretary-Treasurer or another Board member appointed by the Secretary-Treasurer shall supervise and direct investigations of acts or practices that might violate the provisions of the Dental Practice Act, the Dental Hygiene Act or the Board's Rules. The Secretary-Treasurer or other Board member appointed by the Secretary-Treasurer in consultation with the Investigative Panel, shall determine whether cases involving licensees, interns or applicants for licenses or permits shall be set for hearing or settlement conference and recommend to the Board dispositions of cases that are not set for hearing or settlement conference.

History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231;
Eff. October 1, 1996;
Amended Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16U .0102 INVESTIGATIVE PANEL

The Secretary-Treasurer or another Board member appointed by the Secretary-Treasurer shall chair the Investigative Panel. The Board's Counsel, Director of Investigations, Investigators and other staff members appointed by the Secretary-Treasurer shall serve on the Panel. The Investigative Panel shall conduct investigations and prepare and present the Board's case in all reinstatement cases, and disciplinary proceedings and in civil actions to enjoin the unlawful practice of dentistry.

History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231; 150B-40;
Eff. October 1, 1996;
Amended Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16U .0103 REPORTS FROM THE CONTROLLED SUBSTANCES REPORTING SYSTEM

The Department of Health and Human Services (DHHS) may submit a report to the North Carolina State Board of Dental Examiners if it receives information that DHHS believes provides a basis to investigate whether a dentist has issued prescriptions for controlled substances in a manner that may violate laws governing the prescribing of controlled substances or the practice of dentistry.

History Note: *Authority G.S. 90-41; 90-113.74;*
Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0200 - COMPLAINTS

21 NCAC 16U .0201 PROCESSING

Licensees shall be notified of patient complaints against them and given an opportunity to respond except:

- (1) In cases requiring emergency action for the protection of the public health, safety or welfare; or
- (2) In cases where notification may jeopardize the preservation or procurement of relevant evidence.

History Note: *Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231; 150B-41;*
Eff. October 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16U .0202 DISPOSITION

The Secretary-Treasurer or other Board member chairing the Investigative Panel shall direct one or more of the following dispositions of each complaint or other investigation:

- (1) Submission to the Board with a recommendation to dismiss with no action;
- (2) Submission to the Board with a recommendation to resolve by consent;
- (3) Scheduling for pre-hearing conference with the Investigative Panel;
- (4) Scheduling for settlement conference with the Board; or
- (5) Scheduling, with appropriate notice, for contested case hearing.

History Note: *Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-229; 90-231; 150B-38; 150B-41;*
Eff. October 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16U .0203 PRE-HEARING CONFERENCES

- (a) A pre-hearing conference shall not be conducted unless the Respondent agrees to participate.
- (b) A pre-hearing conference shall be conducted before the Investigative Panel. At the pre-hearing conference, a Board investigator shall summarize the circumstances of the investigation. The Respondent shall have an opportunity to respond and to submit documentation. The pre-hearing conference shall not be recorded nor open to the public.
- (c) Following the pre-hearing conference, the Respondent shall be advised in writing of the proposal for disposition of the matter by the Board member presiding over the pre-hearing conference. If the Board member presiding over the pre-hearing conference deems sanctions are appropriate, a Consent Order or letter of reprimand shall be proposed. Should the Respondent accept the terms, the proposed Consent Order or letter of reprimand must be approved by the full Board. Should the Respondent reject the terms of a proposed Consent Order or letter of reprimand, the Board member presiding over the pre-hearing conference shall direct disposition of the matter under Rule .0202 of this Subchapter.

History Note: *Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-229; 90-231; 150B-41;*
Eff. October 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16U .0204 SETTLEMENT CONFERENCES

(a) A settlement conference shall not be conducted unless the Respondent agrees to participate and to waive any objection to the Board being exposed to a forecast of the evidence.

(b) A settlement conference shall be conducted before the Board or a panel of the Board appointed by the President. At the settlement conference, a Board investigator shall summarize the circumstances of the investigation and present a forecast of the Board's evidence. The Respondent shall have an opportunity to forecast his or her evidence. Forecasts of the evidence may be presented orally or in writing and exhibits may be presented. Witnesses may forecast their own testimony but shall not be sworn nor cross-examined. The settlement conference shall not be recorded nor open to the public. The allowed time for initial presentations shall be agreed upon by counsel ten days prior to the conference, subject to approval by the presiding Board member.

(c) If the Board deems sanctions are appropriate, a Consent Order or letter of reprimand shall be proposed. Should the Respondent reject the terms of the Consent Order or letter of reprimand, a contested case hearing may be scheduled.

History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-229; 90-231; 150B-41; Eff. October 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16V – UNPROFESSIONAL CONDUCT

SECTION .0100 - UNPROFESSIONAL CONDUCT

21 NCAC 16V .0101 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTIST

Unprofessional conduct by a dentist shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;
- (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;
- (4) violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;
- (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) failing to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) prescribing, procuring, dispensing, or administering any controlled substance for personal use, which does not include those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;
- (10) failing to provide radiation safeguards required by the State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug Administration, or the Environmental Protection Agency;

- (11) having professional connection with or lending one's name to the unlawful practice of dentistry, including as set forth in G.S. 90-41(a)(9);
- (12) using the name of any deceased or retired dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist;
- (13) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (14) failing to file a truthful response to a notice of complaint filed with the Board within the time allowed in the notice;
- (15) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
- (16) permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks, as set forth in G.S. 90-233(b);
- (17) failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;
- (18) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;
- (19) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;
- (20) failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;
- (21) withholding or refusing to complete a treatment procedure for an existing patient conditioned upon payment of an outstanding balance;
- (22) using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;
- (23) making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so;
- (24) making false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board;
- (25) refusing to permit a Board agent or employee to conduct a sterilization inspection;
- (26) acquiring any controlled substance from any source by fraud, deceit or misrepresentation;
- (27) practicing outside the scope of dentistry, as set forth in G.S. 90-29; and
- (28) committing any act that would constitute civil assault or civil battery in connection with the provision of dental services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

History Note: Authority G.S. 90-28; 90-29; 90-41; 90-48; 90-223(b);
 Eff. August 1, 1998;
 Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. November 1, 2019.

21 NCAC 16V .0102 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTAL HYGIENIST

Unprofessional conduct by a dental hygienist shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental hygiene licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation or at any hearing of the Board;
- (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;

- (4) violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;
- (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) failing to identify to a patient, patient's guardian, an employer, or the Board the name of any person or agent who renders dental treatment or services upon request;
- (7) procuring, dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) acquiring any controlled substance from any pharmacy or other source by misrepresentation, fraud or deception;
- (9) having professional connection with or lending one's name to the illegal practice of dental hygiene, including as set forth in G.S. 90-229(11);
- (10) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (11) failing to file a truthful response to a notice of complaint filed with the Board within the time allowed in the notice;
- (12) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
- (13) working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in the office is greater than 2:1, as set forth in G.S. 90-233(b);
- (14) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;
- (15) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;
- (16) using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;
- (17) making misleading or untruthful statements for the purpose of procuring potential patients or assisting another to do so;
- (18) making false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigation by the Board;
- (19) practicing outside the scope of dental hygiene, as defined in G.S. 90-221(a); and
- (20) committing any act that would constitute civil assault or civil battery in connection with the provision of dental hygiene services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

History Note: Authority G.S. 90-29; 90-221; 90-223; 90-229;
 Eff. August 1, 1998;
 Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000; September 1, 1998;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. November 1, 2019.

SUBCHAPTER 16W – PUBLIC HEALTH HYGIENISTS

SECTION .0100 - PUBLIC HEALTH HYGIENISTS

21 NCAC 16W .0101 DIRECTION DEFINED

(a) A public health hygienist may perform clinical procedures under the direction of a licensed dentist, as defined by 21 NCAC 16A .0101(9), and in accordance with G.S. 90-233(a).

- (b) The specific clinical procedures delegated to the hygienist shall be completed, in accordance with a written order from the dentist, within 270 days of the dentist's in-person evaluation of the patient.
- (c) The dentist's evaluation of the patient shall include a comprehensive oral examination, medical and dental health history, and diagnosis of the patient's condition.
- (d) A public health hygienist may provide educational information, such as instruction in brushing and flossing, without the direction of a licensed dentist.

*History Note: Authority G.S. 90-223; 90-233(a);
Temporary Adoption Eff. October 1, 1999;
Eff. April 1, 2001;
Amended Eff. April 1, 2016; July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. February 1, 2020.*

21 NCAC 16W .0102 TRAINING FOR PUBLIC HEALTH HYGIENISTS

(a) Prior to performing clinical procedures pursuant to G.S. 90-233(a) under the direction of a licensed dentist, a public health hygienist shall have:

- (1) five years of experience in clinical dental hygiene;
- (2) unexpired CPR certification, taken in a live hands-on course;
- (3) six hours of continuing education in medical emergencies each year in addition to the minimum continuing education required for license renewal; and
- (4) other training as may be required by the Oral Health Section of the Department of Health and Human Services.

(b) For purposes of this Rule, a minimum of 4,000 hours, the majority of which must be spent performing prophylaxis or periodontal debridement under the supervision of a licensed dentist, shall be equivalent to five years experience in clinical dental hygiene.

(c) Notwithstanding Subparagraph (a)(1) and Paragraph (b) of this Rule, a public health hygienist may place sealants under the direction of a licensed dentist if the hygienist has a minimum of 2,000 hours of clinical experience assisting in the placement of sealants with the Oral Health Section of the Department of Health and Human Services.

*History Note: Authority G.S. 90-223; 90-233(a);
Temporary Adoption Eff. October 1, 1999;
Eff. April 1, 2001;
Amended Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.*

21 NCAC 16W .0103 TRAINING FOR PUBLIC HEALTH HYGIENISTS PERFORMING PREVENTIVE PROCEDURES

(a) Public health hygienists who provide only educational and preventive procedures such as application of fluorides, fluoride varnishes, and oral screenings, and not clinical procedures, shall be subject to the training provisions set out in Paragraph (b) of this Rule instead of the training provisions required by 21 NCAC 16W .0102.

(b) A public health hygienist may perform preventive procedures as set out in Paragraph (a) of this Rule under the direction of a duly licensed public health dentist if the hygienist:

- (1) maintains CPR certification; and
- (2) completes such other training as may be required by the Oral Health Section of the Department of Health and Human Services.

*History Note: Authority G.S. 90-223; 90-233(a);
Temporary Adoption Eff. February 8, 2000;
Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16W .0104 DENTAL ACCESS SHORTAGE AREAS

(a) Public health hygienists who are practicing under Rule .0101(a) of this Section and who perform procedures in public schools, nursing homes, rest homes, long-term care facilities, and rural and community clinics provided through federal, State, county, or local governments in areas identified by the Office of Rural Health in the Department of Health and Human Services as dental access shortage areas may:

- (1) perform clinical hygiene procedures as described in G.S. 90-221 under the direction of a dentist based on a written standing order, rather than an in-person evaluation by the dentist as set forth in Rule .0101(c) of this Section; and
- (2) supervise a Dental Assistant who assists the public health hygienists in the procedures described in Subparagraph (a)(1) of this Rule. For purposes of this Rule, Dental Assistant means any person classified as a Dental Assistant II or permitted to perform functions of a Dental Assistant II pursuant to 21 NCAC 16H .0104(a) or (b).

(b) Public health hygienists working under supervision of a dentist in accordance with G.S. 90-233(a) and providing services at facilities identified in Paragraph (a) of this Rule who are performing services pursuant to a written standing order from the dentist must complete the procedures ordered within 270 days.

(c) Dentists providing services at facilities pursuant to Paragraph (a) of this Rule are providing public health services and may supervise more than two public health hygienists at the same time who are performing dental hygiene functions.

History Note: Authority G.S. 90-223; 90-233(a); 90-233(b);
Eff. February 1, 2020.

SUBCHAPTER 16X – MANAGEMENT ARRANGEMENTS

SECTION .0100 – MANAGEMENT ARRANGEMENTS

21 NCAC 16X .0101 MANAGEMENT ARRANGEMENTS

(a) No dentist or professional entity shall enter into a management arrangement, contractual agreement, stipulation, or other legal binding instrument with a business entity, corporation, proprietorship, or other business entity, for the provision of defined business services, bundled business services, or other business services, the effect of which may provide control of business activities or clinical/professional services of that dentist or professional entity, unless such management arrangement meets the requirements of Paragraphs (b) and (c) of this Rule. This Rule shall not apply to agreements for the provision of legal, financial, or other services not related to the provision of management services for a fee or to employment arrangements between an employee and the dentist or professional entity.

(b) Any management arrangement, contractual agreement, stipulation, or other binding instrument shall:

- (1) be in a writing that:
 - (A) is signed by all parties to the agreement;
 - (B) sets forth all material terms of the arrangement between or among the parties thereto;
 - (C) describes all of the types of services to be provided by the management company and the time periods during which those services will be provided; and
 - (D) sets forth the aggregate compensation to be paid under the management arrangement, contractual agreement, stipulation, or other legal binding instrument with a business entity or the precise methodology for calculating such compensation.
- (2) be reviewed by the Board.

(c) No management arrangement shall provide for or permit any of the following:

- (1) direct or indirect ownership of, or control over clinical aspects of, the dental business of a dentist or professional entity by a management company or the grant to the management company or another non-professional entity control over the distribution of a revenue stream or control over a line of business of the professional entity except for the sale of fixed assets of a dentist or professional entity permitted under the laws of the State of North Carolina;
- (2) ownership or exclusive control of patient records by a management company;
- (3) direct or indirect control over, or input into, the clinical practices of the professional entity or its dentists or ancillary personnel by a management company;

- (4) direct or indirect control over the hiring and firing of clinical personnel or material terms of clinical personnel's relationship with the dentist or professional entity by a management company or a related person;
 - (5) authority in the management company to enter into or approve any contract or other arrangement, or material terms of such contract or arrangement, between the professional entity and a dentist for the provision of dental services or the requirement that the management company or related person approve or give input into such contract or arrangement;
 - (6) direct or indirect control over the transfer of ownership interests in the professional entity by a management company or other non-professional entity including, without limitation, any agreement or arrangement limiting or requiring in whole or in part the transfer of ownership interests in a professional entity;
 - (7) payment to the management company of anything of value based on a formula that will foreseeably increase or decrease because of the increase or decrease in profitability, gross revenues or net revenues of the dentist or professional entity; or
 - (8) payments to the management company that, at the time of execution of an agreement as required under Paragraph (b) of this Rule, are likely, foreseeably and purposely in excess of the likely profits of the professional entity not taking into account the compensation to be paid to the management company under the management arrangement.
- (d) Notwithstanding Subparagraphs (c)(7) and (c)(8) of this Rule, a management arrangement may provide for the following:
- (1) increased payments to the management company based upon the lowering of costs to the professional entity or dentist;
 - (2) decreased payments to the management company based upon increases in costs to the professional entity or dentist; or
 - (3) collection of monies, or payment of costs, of the professional entity or dentist by the management company so long as the amounts retained by the management company following payment of any costs of the professional entity or dentist comply with the provisions of this Rule relating to compensation to the management company and all sums collected or retained by the management company in excess of costs paid by the management company plus its compensation are paid at least monthly and at regular intervals to the professional entity.
- (e) No dentist or professional entity shall enter into an oral or written arrangement or scheme that the dentist or professional entity knows or should know has a material purpose of creating an indirect arrangement that, if entered into directly, would violate this Rule.
- (f) For purposes of this Rule, the following terms shall have the following meanings:
- (1) "Ancillary personnel" shall mean any individual that regularly assists a dentist in the clinical aspects of the practice of dentistry;
 - (2) "Clinical" shall mean of or relating to the activities of a dentist as described in G.S. 90-29(b)(1)-(10);
 - (3) "Employment arrangement" shall mean an arrangement between a professional entity or dentist and an individual who is considered an employee of the professional entity or dentist under the common law test of an employer/employee relationship, or a leased employee working under a written employee leasing agreement which provides that:
 - (A) the individual, although employed by the leasing company, provides services as the leased employee of the dentist or professional entity; and
 - (B) the dentist or professional entity exercises control over all actions taken by the leased employee with regard to the rendering of services to the same extent as the dentist or professional entity would exercise such control if the leased employee were directly employed by the dentist or professional entity;
 - (4) "Management arrangement" shall mean any one or more agreements, understandings or arrangements, alone or together, whether written or oral, between a management company and a dentist or professional entity whereby:
 - (A) a management company regularly provides services for the clinical-related business of a dentist or professional entity; or
 - (B) a management company exerts control over the management or clinical aspects of the business of a dentist or professional entity or its or their employees or contractors; or

- (C) a management company receives a percentage of the net or gross revenues or profits of a dentist or professional entity.
- (5) "Management company" shall mean any individual, business corporation, nonprofit corporation, partnership, limited liability company, limited partnership or other legal entity that is not a professional entity or dentist;
- (6) "Professional entity" shall mean a professional corporation, nonprofit corporation, partnership, professional limited liability company, professional limited partnership or other entity or aggregation of individuals that is licensed or certified or otherwise explicitly permitted to practice dentistry under North Carolina General Statutes; and
- (7) "Related person" shall mean any person or entity, other than a dentist or professional entity, that owns, is employed by, or regularly receives consideration from, a management company or another related person.

History Note: Authority G.S. 90-29(b)(11); 90-48;
Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SUBCHAPTER 16Y - INTERN PERMITTING: DENTISTS

21 NCAC 16Y .0101 ELIGIBILITY REQUIREMENTS

- (a) Persons shall be eligible for an intern permit under the provisions of G.S. 90-29.4 if they are:
 - (1) not licensed to practice dentistry in North Carolina, but are a graduate of and have a DMD or DDS degree from a dental school or program accredited by the Commission on Dental Accreditation of the American Dental Association; or
 - (2) a graduate of a dental program other than a program accredited by the Commission on Dental Accreditation of the American Dental Association who has been accepted into a graduate, intern, fellowship, or residency program at a North Carolina Dental School or teaching hospital offering programs in dentistry.
- (b) An intern permit shall not be granted to an individual who:
 - (1) lacks good moral character;
 - (2) has been disciplined by any dental board or other licensing body in another state or country.

History Note: Authority G.S. 90-28; 90-29.4; 90-30;
Eff. August 1, 2002;
Amended Eff. July 1, 2015; August 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16Y .0102 APPLICATION FOR INTERN PERMIT

- (a) An applicant who is eligible for an intern permit pursuant to Rule .0101(a) of this Subchapter shall:
 - (1) submit to the Board a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by 21 NCAC 16B .0301(a);
 - (2) submit the nonrefundable intern permit fee set forth in 21 NCAC 16M .0101;
 - (3) submit a letter from a prospective supervising dentist confirming he or she will supervise the intern; and
 - (4) satisfy the examination requirements in 21 NCAC 16B .0303(a).
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an intern permit pursuant to Rule .0101(a)(1) of this Subchapter shall request the information or documents as set out in 21 NCAC 16B .0301(c)(1) and (2).
- (c) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an intern permit pursuant to Rule .0101(a)(2) of this Subchapter shall submit written confirmation to the Board:
 - (1) that the applicant has graduated from a dental program other than one accredited by the Commission on Dental Accreditation (CODA) of the American Dental Association;

- (2) that the applicant is enrolled as of the date of the application in a graduate, intern, fellowship, or residency program at a North Carolina dental school or teaching hospital offering programs in dentistry;
 - (3) that an ad hoc committee from the training facility in which the applicant is enrolled under Subparagraph (c)(2) of this Rule, consisting of three associate or full professors, only one of whom represents the department in question, has evaluated the applicant's didactic and clinical performance with the point of observation being not less than three months after the applicant's start of the program, and has determined the applicant is functioning at a professional standard consistent with a graduate from a dental school or program accredited by CODA;
 - (4) that the applicant has completed a program of study at the training facility in which the applicant is enrolled under Subparagraph (c)(2) of this Rule in:
 - (A) clinical pharmacology;
 - (B) prescription writing in compliance with federal and State laws; and
 - (C) relevant laws and federal regulations pertaining to the United States Drug Enforcement Administration; and
 - (5) the total time required to complete the graduate, intern, fellowship, or residency program, and the date the applicant is scheduled to complete the program.
- (d) The Board shall receive all information and documentation required under Paragraphs (a) through (c) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.
- (e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.
- (f) Any permit obtained through fraud or by any false representation shall be revoked.

*History Note: Authority G.S. 90-28; 90-29.4;
 Eff. August 1, 2002;
 Temporary Amendment Eff. January 1, 2003;
 Amended Eff. July 1, 2015; January 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. March 1, 2020.*

21 NCAC 16Y .0103 EMPLOYMENT

- (a) The practice of dentistry under an intern permit is limited to the confines and registered patients of the following employment sites:
- (1) a nonprofit hospital, sanatorium, or a like institution;
 - (2) a nonprofit health care facility serving low-income populations; or
 - (3) a state or governmental facility or entity or any political subdivision of such.

Each facility or entity set out in Paragraph (a) of this Rule shall submit documentation to the Board evidencing that it meets the qualifications set out in G.S. 90-29.4(3) in order for the facility or site to be considered an approved employment site.

- (b) A listing of approved sites is available on the Board's website: www.ncdentalboard.org.
- (c) A request for change in practice location shall be submitted in writing to the Board and is subject to the new practice location meeting the requirements of Paragraph (a) of this Rule.
- (d) The holder of an intern permit shall not receive any compensation in excess of an allowance for salaries or other compensation for personal services provided.

*History Note: Authority G.S. 90-28; 90-29.4;
 Eff. August 1, 2002;
 Amended Eff. July 1, 2015;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16Y .0104 DIRECTION AND SUPERVISION

- (a) Holders of a valid intern permit who are currently licensed in Canada or a U.S. territory or state may practice under direction of one or more dentists with a current and valid North Carolina license. The directing dentist shall be responsible for all consequences or results arising from the permit holder's practice of dentistry.

(b) Holders of a valid intern permit who are not currently licensed in Canada or a U.S. territory or state may work only under supervision of one or more dentists with a current and valid North Carolina license. The supervising dentist shall be responsible for all consequences or results arising from the permit holder's practice of dentistry.

(c) Holders of any valid intern permit under this Rule who are required to be on-call, either in-person or by electronic means, in an emergency setting may practice under the direction or supervision of a dentist following the accrediting standard of the Commission on Dental Accreditation (CODA).

(d) For purposes of this Rule, the acts of a permit holder are deemed to be under the direction of a licensed dentist when performed in a locale where a licensed dentist is not always required to be physically present during the performance of the acts that are being performed pursuant to the dentist's order, control, and approval.

(e) For purposes of this Rule, the acts of a permit holder are deemed to be under the supervision of a licensed dentist when performed in a locale where a licensed dentist is physically present during the performance of the acts that are being performed pursuant to the dentist's order, control, and approval.

(f) The CODA accrediting standard and its subsequent amendments and editions, which are incorporated herein by reference, are published on the American Dental Association's website located at <http://www.ada.org/en/coda/policies-and-guidelines/policy-and-procedure-manual>, and are available at no cost.

*History Note: Authority G.S. 90-28; 90-29.4;
Eff. August 1, 2002;
Amended Eff. November 1, 2017; July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

21 NCAC 16Y .0105 COMPLIANCE

A permit holder shall comply with limitations delineated in this Subchapter and placed on the permit and shall comply with rules of the Board. Failure to comply with the provisions of this Subchapter may result in suspension or revocation of the intern permit to practice dentistry in accordance with G.S. 90-41.

*History Note: Authority G.S. 90-28; 90-29.4;
Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SUBCHAPTER 16Z - LIMITED SUPERVISION HYGIENISTS

21 NCAC 16Z .0101 ELIGIBILITY TO PRACTICE HYGIENE OUTSIDE DIRECT SUPERVISION

(a) To be eligible to perform the clinical hygiene procedures set out in G.S. 90-221(a) without the direct supervision of a dentist, a dental hygienist shall:

- (1) maintain an active license to practice dental hygiene in this State;
- (2) have no prior disciplinary history in any State;
- (3) complete at least three years of experience in clinical dental hygiene or at least 2,000 hours of performing prophylaxis or periodontal debridement under the supervision of a dentist licensed in this State within the five calendar years immediately preceding initial approval to work without direct supervision;
- (4) maintain current CPR certification;
- (5) complete at least six hours of Board approved continuing education in dental office medical emergencies, in addition to the minimum hours of continuing education required for license renewal. A list of Board-approved sponsors appears in 21 NCAC 16I .0202.

(b) To retain eligibility to perform the clinical hygiene procedures set out in G.S. 90-221(a) without direct supervision of a dentist, a dental hygienist shall:

- (1) complete at least six hours of Board approved continuing education in dental office medical emergencies each year, in addition to the minimum hours of continuing education required for license renewal;
- (2) maintain current CPR certification;

- (3) comply with all provisions of the N.C. Dental Practice Act and all rules of the Dental Board applicable to dental hygienists; and
- (4) cooperate with all Board inspections of any facility at which the hygienist provides dental hygiene services without direct supervision of a dentist.

History Note: Authority G.S. 90-221; 90-233;
Eff. February 1, 2008;
Amended Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16Z .0102 RECORD KEEPING

(a) A dentist who designates a dental hygienist employee as capable of providing clinical dental hygiene procedures without direct supervision of the dentist must keep and maintain the following records for at least ten years:

- (1) names of all hygienists who provide clinical dental hygiene procedures without direct supervision;
- (2) proof that each hygienist, at the time of initial approval, met the experience requirements set out in Rule .0101(a) of this Subchapter;
- (3) names and locations of all facilities at which each hygienist has provided clinical dental hygiene procedures without direct supervision;
- (4) work schedules reflecting all locations at which each hygienist is scheduled to provide clinical dental hygiene procedures without direct supervision in the next 30 days;
- (5) work schedules of all hygienists indirectly supervised by the dentist, with sufficient detail to demonstrate that a single dentist does not supervise more than two hygienists employed in clinical dental hygiene positions at any given time;
- (6) records reflecting the personal examination of the patient and the procedures directed by the dentist; and
- (7) proof that the dentist and hygienist complied with the requirements of G.S. 90-233(a1)(1) – (3).

(b) The dentist shall produce all records required to be kept under this Rule to the Dental Board or its employees upon request and shall provide an annual report to the Board in compliance with G.S. 90-233(a4).

History Note: Authority G.S. 90-221; 90-233;
Eff. February 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

21 NCAC 16Z .0103 INSPECTIONS

All locations at which a hygienist performs clinical dental hygiene procedures without direct supervision of a dentist shall be subject to random, unannounced inspection by the Dental Board or its agents for the purpose of determining if services are provided in compliance with the Center for Disease Control and OSHA standards for infection control and patient treatment.

History Note: Authority G.S. 90-221; 90-233;
Eff. February 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.