REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0103

DEADLINE FOR RECEIPT: Friday, January 13, 2023.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 6, would it change the meaning to revise as follows: "… or supervising a CRNA or an RN employed to administer…" This seems simpler.

Either way, in (a), please add "an" prior to "RN".

In (b), line 9, what is a "credentialed surgery center"? Credentialed how?

In (c)(1)(B), line 19, what are the "enhancements" discussed here? Please define.

In (C), line 12, (D), line 22, (N), line 35, and (R), p.2, line 2, what does "necessary for specific procedures" mean? This seems rather vague.

In (d)(2), line 15, and (3), line 17, what does it mean to be "BLS certified"? I see in 16Q .0101 that BLS means Basic Life Support, but I'm unclear on the certification process.

In (d)(4)(C), line 28, add a comma following "holder."

Also on line 29, add "of" between "level" and "sedation."

On line 30, is there a better way to phrase "allowed by the permit holder's permit"? Maybe just "allowed by the permit"?

In (5), line 32, "Rule" should be plural. Please check throughout these Rules, as I saw this multiple times.

In (e), line 33-34, it isn't necessary to say "but not limited to", "include" is fine on it's own. However, "include" has an open-ended connotation, so what else, beyond (1)-(3) must the permit holder evaluate?

In (e)(1)-(3), the first word of each item should be in a different tense for grammatical consistency. Consider "evaluating" or "evaluation of" instead of "evaluate".

Brian Liebman
Commission Counsel
Date submitted to agency: January 6, 2023

In (e)(2), line 37, are all sedation dentistry procedures elective? If not, is a different standard applicable to non-elective dental procedures?

In (e)(3), p.4, line 4, "Rule" should be plural.

In (f)(4), line 13, I think "base line" should be one word.

In (f)(7), line 24, "Rule" should be plural.

In (g)(1), line 27, does the term "vital signs" mean the same thing as "vital sign information" in (f)(5)? If not, what are the differences?

In (h), p.5, line 11, add a comma after "history."

In (h)(5), line 33, "Rule" should be plural.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 16Q .0103 is adopted as published in 37:07 NCR 543-45 as follows:

21 NCAC 16Q .0103 EQUIPMENT, PERSONNEL, AND CLINICAL REQUIREMENTS TO ADMINISTER ANESTHESIA OR MODERATE SEDATION

(a) Before administering general anesthesia, moderate conscious sedation, or moderate pediatric conscious sedation ("anesthesia or moderate sedation"), or supervising a CRNA to administer or RN employed to deliver anesthesia or moderate sedation, a dentist shall hold an unexpired permit issued by the Board in accordance with this Subchapter permitting the dentist to administer that level of sedation.

(b) Before performing sedation procedures in a facility other than a hospital or credentialed surgery center, the permit holder shall ensure that the Board has been notified that the permit holder intends to administer anesthesia or moderate sedation at the facility and shall ensure that the facility has passed a facility inspection by the Board in accordance with this Subchapter.

(c) The permit holder shall ensure that the facility where the sedation procedure is to be performed meets the following requirements at the time of the procedure:

(1) The permit holder shall ensure the facility is equipped as follows and that the following listed equipment is immediately available and accessible from the operatory and recovery rooms:

(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) a blood pressure monitoring device;

(H) an EKG monitor;

(I) a pulse oximeter;

(J) an automatic external defibrillator (AED);

(K) a capnograph;

(L) a precordial or pretracheal stethoscope;

(M) a thermometer;

(N) vascular access set-up as necessary for specific procedures, including hardware and fluids;

(O) a laryngoscope with working batteries;

(P) intubation forceps and advanced airway devices;

(Q) tonsillar suction with back-up suction;

(R) syringes as necessary for specific procedures; and

(S) tourniquet and tape.

(2) The permit holder shall ensure all monitoring and other equipment in the facility receives preventive maintenance no less frequently than once per year, including safety and function checks per the manufacturers' recommendations. The permit holder shall maintain documentation of all preventive maintenance performed, and shall ensure equipment is replaced upon its expiration or as clinically required.

(3) The permit holder shall ensure the following unexpired drugs are immediately available and are accessible from the operatory and recovery rooms:

(A) epinephrine;

(B) atropine;

(C) an antiarrhythmic;

(D) an antihistamine;

(E) an antihypertensive;

(F) a bronchodilator;

(G) an antihypoglycemic agent;

(H) a vasopressor;

(I) a corticosteroid;

(J) an anticonvulsant;

(K) appropriate reversal agents;

(L) nitroglycerine; and

(M) an antiemetic.

(4) The permit holder shall maintain written emergency and patient discharge protocols accessible from the operatory and recovery rooms. The written emergency manual shall include a protocol for activation of emergency management services for life-threatening complications along with the information set out in Rule .0101(17) of this Section.

(5) The permit holder shall satisfy any additional facility requirements applicable to the level of the permit, as set out in Rule .0202, .0206, .0302, or .0405 of this Subchapter.

(d) The permit holder shall ensure that the following staffing, education, and training requirements are met prior to performing a sedation procedure:

(1) The permit holder shall provide training to familiarize all auxiliaries in the treatment of clinical emergencies including the following, and shall review and practice responding to clinical emergencies with all auxiliaries as a team and in person every six months;

(A) airway obstruction;

(B) allergic reactions;

(C) angina pectoris;

(D) apnea;

(E) bradycardia;

(F) bronchospasm;

(G) cardiac arrest;

(H) convulsions;

(I) emesis and aspiration;

(J) hypertension;

(K) hypoglycemia;

(L) hypotension;

(M) hypoventilation and respiratory arrest;

(N) hypoxemia and hypoxia;

(O) laryngospasm;

(P) myocardial infarction; and

(Q) syncope.

(2) All auxiliaries in the facility shall be BLS certified.

(3) Except as set out in Subparagraph (d)(4) of this Rule, the permit holder performing the surgery or other dental procedure shall ensure that an RN or a BLS-certified auxiliary is dedicated to patient monitoring and recording anesthesia or sedation data throughout the sedation procedure.

(4) The requirement set out in Subparagraph (d)(3) of this Rule shall not apply if the permit holder or an additional sedation provider is dedicated to patient care and monitoring regarding anesthesia or moderate sedation throughout the sedation procedure and is not performing the surgery or other dental procedure. The additional sedation provider shall be:

(A) a dentist holding a permit or mobile permit in satisfaction of this Subchapter to administer the anesthesia or sedation level at the facility where the sedation procedure is performed;

(B) an anesthesiologist licensed and practicing in accordance with the rules of the North Carolina Medical Board; or

(C) a CRNA licensed and practicing in accordance with the rules of the North Carolina Board of Nursing, under the supervision and direction of the permit holder who shall ensure the level sedation administered does not exceed the level of the sedation allowed by the permit holder's permit.

(5) The permit holder shall satisfy any additional staffing, education, and training requirements applicable to the level of the permit, as set out in Rule .0202, .0302, or .0405 of this Subchapter.

(e) Before starting any sedation procedure, the permit holder shall conduct a pre-operative patient evaluation which shall include, but is not limited to, the following:

(1) evaluate the patient for health risks relevant to the potential sedation procedure;

(2) evaluate the patient's food and fluid intake following the ASA guidelines for pre-operative fasting applicable to elective procedures involving the administration of anesthesia or moderate sedation.

The ASA guidelines are incorporated by reference, including subsequent amendments and editions, and may be accessed at https://www.asahq.org at no cost; and

(3) satisfy any additional requirements for pre-operative patient evaluation and procedures applicable to the level of the permit, as set out in Rule .0202, .0302, or .0405 of this Subchapter.

(f) During the sedation procedure:

(1) Prescriptions intended to accomplish procedural sedation, including enteral dosages, shall be administered only under the direct supervision of the permit holder.

(2) 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.

(3) Capnography shall be used to monitor patients unless an individual patient's behavior or condition prevents use of capnography. In that event, the permit holder shall document in the sedation record the clinical reason capnography could not be used.

(4) The permit holder shall ensure the patient's base line vital signs are taken and recorded, including temperature, SPO2, blood pressure, and pulse.

(5) The permit holder shall ensure the patient's blood pressure, oxygen saturation, ET CO2 (unless capnography cannot be used), pulse, and respiration rates ("vital sign information") are monitored continuously in a manner that enables the permit holder to view vital sign trends throughout the procedure.

(6) The permit holder shall ensure the intraoperative vital sign information is recorded on the anesthesia or sedation record contemporaneously throughout the procedure in intervals of five minutes or less for patients over twelve years old, and in intervals of ten minutes or less for pediatric patients twelve years old or younger.

(7) The permit holder shall satisfy any additional requirements for operative procedures applicable to the level of the permit, as set out in Rule .0202, .0302, or .0405 of this Subchapter.

(g) Post-operative monitoring and discharge shall include the following:

(1) The permit holder or an auxiliary under his or her direct supervision shall monitor the patient's post-operative vital signs until the patient is recovered and is ready for discharge from the office. Recovery from anesthesia or moderate sedation shall include documentation of the following:

(A) stable cardiovascular function;

(B) uncompromised airway patency;

(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 with minimal assistance, if applicable; and

(H) for a special needs patient, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.

(2) Before allowing the patient to leave the office, the permit holder shall determine that the patient has met the recovery criteria set out in Subparagraph (g)(1) 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 post-operative instructions have been provided to the patient or a person responsible for the patient at time of discharge; and

(C) a person authorized by or responsible for the patient is available to transport the patient after discharge.

(h) The permit holder shall maintain the following in the patient treatment records for 10 years:

(1) the patient's current written medical history including known allergies and previous surgeries;

(2) a pre-operative assessment as set out in Paragraph (e) of this Rule;

(3) consent to the procedure and to the anesthesia or sedation, signed by the patient or guardian, identifying the procedure and its risks and benefits, the level of anesthesia or sedation and its risks and benefits, and the date signed;

(4) the anesthesia or sedation record that shall include:

(A) the patient's base line vital signs and intraoperative vital sign information as set out in Subparagraphs (f)(4)-(6) of this Rule;

(B) the printed or downloaded vital sign information from the capnograph. A permit holder's failure to maintain capnograph documentation, except as set out in Subparagraph (f)(3) of this Rule, shall be deemed a failure to monitor the patient as required pursuant to this Subchapter;

(C) procedure start and end times;

(D) gauge of needle and location of IV on the patient, if used;

(E) the total amount of any local anesthetic administered during the procedure;

(F) any analgesic, sedative, pharmacological, or reversal agent, or other drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration, with separate entries for each increment of medication that is titrated to effect;

(G) documentation of complications or morbidity, and clinical responses; and

(H) status of patient upon discharge, including documentation of satisfying the requirements set out in Paragraph (g) of this Rule; and

(5) any additional documentation applicable to the level of the permit, as set out in Rule .0202, .0302, or .0405 of this Subchapter.

History Note: *Authority G.S. 90-28; 90-30.1; 90-31.1; 90-48;*
Eff. February 1, 2023.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0104

DEADLINE FOR RECEIPT: Friday, January 13, 2023.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), line 10, please delete "but not limited to". However, as "including" has an open-ended connotation, what beyond the 4 things listed in (b) must the dentist demonstrate competency in?

In (c), line 18, are the "topics set forth in Paragraph (b)" "general anesthesia, moderate conscious sedation, or moderate pediatric conscious sedation"? Please clarify.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 6, 2023

21 NCAC 16Q .0104 is adopted as published in 37:07 NCR 545 as follows:

21 NCAC 16Q .0104 REQUIREMENTS FOR INSPECTIONS AND EVALUATIONS

(a) During a facility inspection pursuant to the rules of this Subchapter, for a dentist applying for or holding a permit to administer general anesthesia, moderate conscious sedation, or moderate pediatric conscious sedation, the applicant or permit holder shall demonstrate satisfaction of the requirements set forth in Rule .0103(c) and (d) of this Section.

(b) During an evaluation, for a dentist applying for or holding a permit to administer general anesthesia, moderate conscious sedation, or moderate pediatric conscious sedation, the applicant or permit holder shall demonstrate the administration of anesthesia or sedation in accordance with the level of the permit, and shall demonstrate competency including but not limited to the following areas:

(1) pre-operative patient evaluation and procedures, including the requirements set forth in Rule .0103(e) of this Section;

(2) operative procedures, including the deployment of an intravenous delivery system and the requirements set forth in Rule .0103(f) of this Section;

(3) post-operative patient monitoring and discharge, including the requirements set forth in Rule .0103(g) of this Section; and

(4) treatment of the clinical emergencies set out in Rule .0103(d)(1) of this Section.

(c) During the evaluation, the applicant shall take a written examination on the topics set forth in Paragraph (b) of this Rule. The applicant shall obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the applicant fails to obtain a passing score on the written examination, he or she may be re-examined in accordance with Rule .0204(h), .0306(h), or .0408(h) of this Subchapter.

(d) The permit holder shall be subject to re-evaluation every five years. Each facility where the permit holder administers anesthesia or sedation shall be subject to a facility inspection upon annual renewal of the permit.

History Note: *Authority G.S. 90-28; 90-30.1; 90-48;*
Eff. February 1, 2023.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0302

DEADLINE FOR RECEIPT: Friday, January 13, 2023.

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In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 6, would it change the meaning to revise as follows: "… or supervising a CRNA or an RN employed to administer…" This seems simpler.

Either way, in (a), please add "an" prior to "RN".

In (c)(2), line 15, is there a better way to phrase "evaluated by … consultation"?

In (c)(2), line 16, is "consulting" a noun or adjective? i.e. does this mean a "consulting medical specialist" as written, or was this supposed to mean that the permit holder should "consult with" the patient's medical specialist. Just checking.

In (d), line 21, "contraindicated" by whom? The manufacturer?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 6, 2023

21 NCAC 16Q .0302 is amended as published in 37:07 NCR 548-50 as follows:

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

(a) A dentist ~~administering~~ holding or applying for a permit to administer 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:~~ be subject to the requirements set out in Section .0100 of this Subchapter.

(b) In addition to the drugs listed in Rule .0103(c)(3) of this Subchapter, an unexpired muscle relaxant shall be immediately available and be accessible from the operatory and recovery rooms.

(c) As part of the pre-operative assessment required by Rule .0103(e) of this Subchapter, the permit holder shall evaluate the patient for health risks 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 the permit holder's consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the planned dental procedure.

(d) During the sedation procedure, a moderate conscious sedation permit holder shall not administer anesthetic or sedative agents:

(1) designed by the manufacturer for use in administering general anesthesia or deep sedation;

(2) contraindicated for use in moderate conscious sedation; or

(3) in amounts exceeding the manufacturers' maximum recommended dosages, unless the permit holder documents in the sedation record the clinical reason for exceeding the maximum recommended dosage for the patient.

~~(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, 2023; February 1, 2019; August 1, 2018.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0405

DEADLINE FOR RECEIPT: Friday, January 13, 2023.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (c), line 11, what is "BLS-certified"? Same question as in Rule .0103.

In (e)(2), line 21, is there a better way to phrase "evaluated by … consultation"?

In (e)(2), line 22, is "consulting" a noun or adjective? i.e. does this mean a "consulting medical specialist" as written, or was this supposed to mean that the permit holder should "consult with" the patient's medical specialist. Just checking.

In (f)(3), line 28, mostly out of curiosity, but why must a hand or foot be left exposed?

In (f)(4), line 29, what does "attended" mean?

In (g)(2), line 33, "contraindicated" by whom? The manufacturer?

In (h)(3), line 6, add "the" between "to" and "person."

Also, what do you mean by "car seat"? It seems to me this means something other than a seat in a car.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 6, 2023

21 NCAC 16Q .0405 is amended as published in 37:07 NCR 550-52 as follows:

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

(a) A dentist ~~administering~~ holding or applying for a permit to administer moderate pediatric conscious sedation shall ~~ensure that the facility where the sedation is administered meets the following requirements:~~ be subject to the requirements set out in Section .0100 of this Subchapter.

(b) In addition to the drugs listed in Rule .0103(c)(3) of this Subchapter, an unexpired muscle relaxant shall be immediately available and be accessible from the operatory and recovery rooms.

(c) In addition to the requirements set out in Rule .0103(c)(4) of this Subchapter, the permit holder's emergency manual shall include assignments to be performed in the event of emergency by a BLS-certified auxiliary dedicated to patient monitoring.

(d) In addition to the requirements set out in Rule .0103(e) of this Subchapter concerning pre-operative procedures, the permit holder shall ensure that patients who have been administered moderate pediatric conscious sedation are monitored for alertness, responsiveness, breathing, and skin coloration during waiting periods before operative procedures by the permit holder or an auxiliary dedicated to patient monitoring.

(e) As part of the pre-operative assessment required by Rule .0103(e) of this Subchapter, the permit holder shall evaluate the patient for health risks 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 the permit holder's consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the planned dental procedure.

(f) If a patient immobilization device is used, the permit holder shall ensure that:

(1) the device is applied to avoid airway obstruction or chest restriction;

(2) the patient's head position and respiratory excursions are checked frequently to ensure airway patency;

(3) a hand or foot is kept exposed; and

(4) the patient is attended at all times.

(g) During the sedation procedure, a moderate pediatric conscious sedation permit holder shall not administer anesthetic or sedative agents:

(1) designed by the manufacturer for use in administering general anesthesia or deep sedation;

(2) contraindicated for use in moderate pediatric conscious sedation; or

(3) in amounts exceeding the manufacturers' maximum recommended dosages, unless the permit holder documents in the sedation record the clinical reason for exceeding the maximum recommended dosage for the patient.

(h) In addition to the requirements set out in Rule .0103(h) of this Subchapter concerning the patient treatment record, the permit holder shall maintain documentation of pre-sedation instructions and information provided to the patient or person responsible for the patient, which shall include:

(1) objectives of the sedation;

(2) anticipated changes in patient behavior during and after sedation;

(3) instructions to person responsible for a patient transported in a car seat regarding patient head position to avoid airway obstruction;

(4) a 24-hour telephone number for the permit holder or his or her BLS-certified auxiliaries; and

(5) instructions on limitations of activities and dietary precautions.

(i) For purposes of Rule .0104(b)(2) of this Subchapter, during an evaluation, a moderate pediatric conscious sedation permit holder or applicant shall demonstrate competency in the deployment of an intravenous delivery system as follows:

(1) a permit holder or applicant who uses intravenous sedation shall demonstrate the administration of moderate pediatric conscious sedation on a live patient, including the deployment of an intravenous delivery system; and

(2) a permit holder or applicant who does not use intravenous sedation shall describe the proper deployment of an intravenous delivery system and shall demonstrate the administration of moderate pediatric conscious sedation on a live patient.

~~(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, 2023; February 1, 2019; August 1, 2018.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0703

DEADLINE FOR RECEIPT: Friday, January 13, 2023.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 4, I assume "sedation" refers to both moderate conscious sedation and moderate pediatric conscious sedation? I haven't seen where one term was used to capture all kinds of sedation elsewhere in these rules.

In (a), line 10, the paragraph reads as if only general anesthesia permit holders have to file the adverse occurrence report. Please clarify and revise as necessary.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 6, 2023

21 NCAC 16Q .0703 is amended as published in 37:07 NCR 552-53 as follows:

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~~ if the patient dies or has permanent organic brain dysfunction within 24 hours ~~of~~ after the ~~procedure.~~ administration of general anesthesia or sedation. Sedation permit holders shall cease administration of sedation until the Board has investigated the death or permanent organic brain dysfunction 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~~ adverse occurrence 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~~ if the patient is admitted to a hospital on inpatient status for a medical emergency or physical injury within 24 hours after the administration of general anesthesia or sedation.~~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) the entire patient treatment record including anesthesia records.

(d) Upon receipt of any ~~such report,~~ report submitted pursuant to this Rule, 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.~~ Chapter 90 of the General Statutes 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.~~2018;
Amended Eff. February 1, 2023.