

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0501

DEADLINE FOR RECEIPT: June 9, 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:

On line 20, what is meant by "secure electronic transmission"? Is there a definition somewhere, or a method spelled out in more detail?

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

Seth Ascher
Commission Counsel
Date submitted to agency: May 24, 2023

1 21 NCAC 16C .0501 is amended as published in 37:16 NCR 1100-01 as follows:

2
3 **SECTION .0500 – LICENSURE BY CREDENTIALS**

4
5 **21 NCAC 16C .0501 DENTAL HYGIENE LICENSURE BY CREDENTIALS**

6 (a) An applicant for a dental hygiene license by credentials shall submit to the Board:

- 7 (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the
8 information and materials required by Rule .0301(a) of this Subchapter;
- 9 (2) the nonrefundable licensure by credentials fee set forth in 21 NCAC 16M .0102;
- 10 (3) an affidavit from the applicant stating for the two year period set out in G.S. 90-224.1(c)(1):
- 11 (A) the dates that and locations where the applicant has practiced dental hygiene;
- 12 (B) that the applicant has provided at least 2,000 hours of clinical care to patients; and
- 13 (C) that the applicant holds an active, unrestricted dental hygiene license issued by another
14 U.S. state or any U.S. territory, and has done so without any period of interruption; and
- 15 (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal
16 agency complaints, judgments, or settlements that are related to licensure and are not disclosed
17 elsewhere in the application.

18 (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental hygiene license by credentials
19 shall request the applicable entity to send the following required information or ~~documents~~ documents, in a sealed
20 envelope or via secure electronic transmission, directly from the entity to the Board office: office, with each document
21 in an unopened envelope sealed by the entity involved:

- 22 (1) the applicant's official transcripts from a dental hygiene program accredited by the Commission on
23 Dental Accreditation of the American Dental Association;
- 24 (2) a certificate of the applicant's licensure status from the regulatory authority or other occupational or
25 professional regulatory authority and a disclosure of all disciplinary actions taken or investigations
26 pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene
27 license or other occupational or professional license;
- 28 (3) ~~examination scores from: required by Rule .0303(b) of this Subchapter;~~
- 29 (A) the National Board Dental Hygiene Examination administered by the Joint Commission on
30 National Dental Examinations; and
- 31 (B) a clinical examination accepted by the Board based on the criteria set out in Rule .0303(d)
32 of this Subchapter;
- 33 (4) a report of any pending or final malpractice actions against the applicant verified by ~~the any~~
34 malpractice insurance carrier covering the applicant; and
- 35 (5) a letter of coverage history from all current and all previous malpractice insurance carriers covering
36 the applicant.

1 ~~The Board shall receive~~ An application shall be complete when the Board receives all information and
2 documentation set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations
3 required by ~~this Rule. Rule .0303 of this Subchapter for the application to be complete. Applications-Partial~~
4 applications that are not completed within one year of the date the first document is being submitted to the Board shall
5 be disregarded as expired without a refund of the application fee.

6 (d) An applicant for dental hygiene licensure by credentials shall pass the Board's written examinations in sterilization
7 and jurisprudence as set out in Rule .0303(a) of this Subchapter. Applicants who do not pass ~~the either~~ written
8 examination after three attempts within one year in accordance with Rule .0311(b) of this Subchapter shall not be
9 eligible for reexamination under Rule .0311(c) of this Subchapter and may not reapply for licensure by credentials.

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

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

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13 *History Note: Authority G.S. 90-223; 90-224.1; 90-229;*
14 *Temporary Adoption Eff. January 1, 2003;*
15 *Eff. January 1, 2004;*
16 *Recodified from Rule .0401 Eff. June 1, 2006;*
17 *Amended Eff. September 1, 2014; February 1, 2010;*
18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
19 *2018;*
20 *Amended Eff. July 1, 2023; March 1, 2020.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16H .0105

DEADLINE FOR RECEIPT: June 9, 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:

G.S. 90-29(c)(12) is potentially ambiguous as to whether the Board is recognizing the exam, the course, or both. It appears that the Board's position is that it can regulate the exam and the course. Is there any additional support for this interpretation?

As structured, paragraph (a) is confusing. Consider: "If a dental radiology course and the course's final examination meet the requirements of this rule, The Board will recognize the final examination as satisfying the dental radiology training and equivalency requirements set out in G.S. 90-29(c)(12)."

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

Seth Ascher
Commission Counsel

Date submitted to agency: May 24, 2023

1 21 NCAC 16H .0105 is adopted with changes as published in 37:16 NCR 1102-04 as follows:

2
3 **21 NCAC 16H .0105 DENTAL RADIOLOGY COURSE AND EXAMINATION REQUIREMENTS**
4

5 (a) The Board will recognize a dental radiology course meeting the requirements of this Rule and the course's final
6 examination as satisfying the dental radiology training and equivalency examination requirements set out in G.S. 90-
7 29(c)(12).

8 (b) For the Board to recognize a dental radiology course and its final examination:

9 (1) The course shall include at least 7 hours of didactic, lecture-based instruction and at least 14 hours
10 of laboratory instruction.

11 (2) The course curriculum shall include instruction and training in clinical dental radiology, in the
12 production and use of dental x-rays, and on digital x-ray equipment. The course shall enable the
13 student to:

14 (A) identify in sequence the steps necessary for operating dental x-ray equipment;

15 (B) identify the requirements of a diagnostic digital image;

16 (C) differentiate the effect of variations in amperage, kilo-voltage, distance, and exposure time
17 on the resulting digital images;

18 (D) identify the terms used to measure radiation;

19 (E) establish guidelines for maintaining radiation safety and the ALARA ("as low as
20 reasonably achievable") principle;

21 (F) follow principles of radiologic health practices and radiation biology;

22 (G) identify radiation safety techniques and monitoring devices;

23 (H) identify the parts and identification marks on dental x-ray sensors;

24 (I) identify and compare intraoral sensors according to size and customary usage;

25 (J) identify methods of sensor handling and storage;

26 (K) identify and perform in sequence the steps in processing digital images;

27 (L) differentiate between preliminary interpretation and diagnosis of the digital images;

28 (M) identify the anatomical landmarks of the face and skull;

29 (N) identify any dental radiograph according to its location in the maxilla or mandible, and
30 position it on a digital image mount;

31 (O) identify the types of radiographic errors caused by faulty exposure techniques;

32 (P) identify the types of radiographic errors caused by incorrect digital mount positioning and
33 angulation of the central ray;

34 (Q) identify the types of radiographic errors caused by faulty digital processing techniques;

35 (R) identify the conditions that cause digital images to be fogged;

36 (S) identify the advance preparations necessary before exposing digital images;

37 (T) carry out the task of digital image exposure to completion;

- 1 (U) use the paralleling technique to produce digital images of diagnostic quality addressing
2 contrast, density, and definition;
- 3 (V) explain the principles of digital imaging and quality assurance;
- 4 (W) identify errors when using digital imaging in technique and processing;
- 5 (X) explain the utilization of beam aligning devices; and
- 6 (Y) describe the use of hand-held radiation exposure devices following guidelines from the
7 Radiation Protection Section of the Department of Health and Human Services, Radiology
8 Compliance Branch ("Radiation Protection Section"), which are incorporated by reference,
9 including subsequent amendments and editions, and are available at no cost online at
10 www.ncradiation.net/Xray/dentdose.htm.
- 11 (3) The laboratory portion of the course shall have no more than six students per instructor, and shall
12 include practice on dental radiography manikins. Students shall not practice on peer students unless
13 the unit is turned off and all requirements of the Board's sterilization and infection control rule, 21
14 NCAC 16J .0103, are satisfied. Students shall be required to achieve a passing score of at least 80
15 percent on a written examination on radiation safety prior to taking radiographs.
- 16 (4) To complete the course, students shall be required to achieve a passing score of at least 80 percent
17 on a written examination upon completion of the didactic, lecture-based portion of the course ~~before~~
18 ~~beginning the laboratory portion,~~ and to achieve a passing score of at least 80 percent on a final
19 laboratory examination. The final laboratory examination shall be conducted on a ~~manikin.~~ manikin
20 and include completion of a full mouth series.
- 21 (5) The facility used as the training location for the course shall:
- 22 (A) assume all overhead costs involved in offering the course;
- 23 (B) comply with the Board's rules regarding sanitation, sterilization, and infection control set
24 out in 21 NCAC 16J, the applicable guidelines of the Radiation Protection Section, and the
25 OSHA guidelines and standards related to dentistry, which are incorporated by reference,
26 including subsequent amendments and editions, and are available at no cost online at
27 www.osha.gov/dentistry/standards;
- 28 (C) provide access to a room large enough to accommodate the number of participants for
29 lecture purposes;
- 30 (D) have the number of x-ray machines necessary based on the course curriculum and
31 enrollment to ensure there are no more than two students per machine; and
- 32 (E) have facilities for ~~use of photostimulable phosphor plates for indirect~~ digital radiography.
- 33 (6) The didactic and laboratory portions of the course shall be taught by:
- 34 (A) an instructor of dental radiography at an institution accredited by the Commission on
35 Dental Accreditation ("CODA"), a list of which is available at no cost at www.ada.org/coda
36 and is incorporated by reference, including subsequent amendments and editions; or

1 (B) an instructor who has taken and passed a radiology instructor's certification course taught
2 by an instructor of dental radiography at a CODA-accredited institution, and has completed
3 three hours of continuing education in the area of radiology every other year.

4 (7) The course sponsor shall provide students with all supplies.

5 (8) Course advertising shall comply with the Board's rules regarding advertisement of dental services
6 set out in 21 NCAC 16P.

7 (c) A course sponsor seeking Board recognition of a dental radiology course shall submit to the Board office:

8 (1) the course outline, syllabus, and handouts;

9 (2) slides and other lecture materials;

10 (3) examinations and grading criteria; and

11 (4) the name, resume, and verification of credentials satisfying Subparagraph (b)(6) of this Rule for all
12 course instructors.

13 (d) After the course sponsor submits all the information and documents required by Paragraph (c) of this Rule, the
14 course will be reviewed by the Board for compliance with this Rule at the next scheduled Board meeting. The Board
15 may delay reviewing a course until a later meeting if the Board's workload makes the review impracticable. If the
16 Board delays reviewing a course, it shall notify the course sponsor. A course shall be recognized by a majority vote
17 of the Board. A list of recognized courses is available on the Board's website at www.ncdentalboard.org.

18 (e) Upon receipt of evidence that a previously recognized course is not in compliance with this Rule, the Board will
19 notify the course sponsor in writing of each item of noncompliance. Within 30 days from the date of the notice of
20 noncompliance, the course sponsor shall provide a written response to the Board office which shall respond to each
21 item of noncompliance. The response shall provide documentation of corrections made, and shall show each item is
22 in compliance with this Rule. If the course sponsor fails to respond or correct noncompliance, the Board's recognition
23 of the course shall be withdrawn. As of the date recognition is withdrawn, the course and its examination shall not
24 satisfy the dental radiology training and equivalency examination requirements set out in G.S. 90-29(c)(12).

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26 *History Note: Authority G.S. 90-29(c)(12); 90-48;*

27 *Eff. July 1, 2023.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16I .0201

DEADLINE FOR RECEIPT: June 9, 2023

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

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

Regarding paragraph a, G.S. 90-225 states that "All dental hygienists licensed under G.S. 90-225 shall be required to attend Board-approved courses of study in subjects relating to dental hygiene." Are self-study courses attended?

In the last sentence of paragraph a (lines 9 through 12), is the test required for all courses? Or just self-study courses?

In paragraph (d), "resume practice" is confusing when applied to "semi-retired dental hygienists" who are practicing 250 hours a year under (c)(1). Do you mean something like "If a retired or semi-retired dental hygienist wishes to resume practice without the restrictions in paragraph (c) . . . " ?

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

Seth Ascher
Commission Counsel

Date submitted to agency: May 24, 2023

1 21 NCAC 16I .0201 is amended as published in 37:16 NCR 1104 as follows:

2
3 **SECTION .0200 – CONTINUING EDUCATION**
4

5 **21 NCAC 16I .0201 CONTINUING EDUCATION REQUIRED**

6 (a) As a condition of license renewal, each dental hygienist shall complete six clock hours of continuing education
7 each calendar year. ~~Any or all the~~ The hours may be acquired through self-study self-study courses. To count toward
8 the mandatory continuing education requirement, self-study self-study courses shall be related to clinical patient care
9 and offered by a ~~board approved~~ Board-approved sponsor. sponsor listed in Rule .0202 of this Section. The dental
10 hygienist shall pass a test ~~following the course administered by the course sponsor~~ and obtain a certificate of
11 completion.completion from the sponsor.

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

13 (c) ~~A dental hygienist who can demonstrate a disabling condition may request a variance in required continuing~~
14 ~~education hours during a particular period. Written documentation of a disabling condition that interferes with the~~
15 ~~hygienist's ability to complete the required hours shall be provided to the Board. The Board may grant or deny such~~
16 ~~requests on a case by case basis, depending upon the nature of the disabling condition, its impact on the hygienist's~~
17 ~~ability to complete continuing education, and the likely duration of the disability.~~ Upon receipt of a written request
18 from the dental hygienist, the Board will grant exemptions from the requirements set out in this Rule and in Rule .0206
19 of this Section as follows:

20 (1) A dental hygienist who practices not more than 250 clock hours in a calendar year shall be classified
21 as a semi-retired dental hygienist, and shall:

22 (A) be exempt from the requirement set out in Paragraph (a) of this Rule to complete six clock
23 hours of continuing education each calendar year; and

24 (B) maintain an unexpired CPR certification.

25 (2) A retired dental hygienist who does not practice any dental hygiene shall be exempt from all
26 continuing education and CPR certification requirements.

27 (d) ~~If a licensee dental hygienist who has been exempted from continuing education requirements wishes to resume~~
28 ~~practice, the licensee shall complete~~ Board shall require an unexpired CPR certification and continuing education
29 courses for the calendar year in which he or she resumes practice in accordance with this Rule.Rule and Rule .0206
30 of this Section when reclassifying the dental hygienist. A dental hygienist who has been classified as retired and wishes
31 to resume practice shall satisfy the reinstatement requirements of 21 NCAC 16C .0601. The Board may require
32 licensees who have not practiced dental hygiene for more than a year to undergo a clinical test before allowing the
33 licensee to resume practice if there is evidence that the licensee suffers from addiction or a mental or physical condition
34 that impairs the licensee's ability to practice hygiene competently.

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36 *History Note: Authority G.S. 90-225.1; 90-229;*

37 *Eff. May 1, 1994;*

1 *Amended Eff. April 1, 2015; November 1, 2008; April 1, 2001; August 1, 1998;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
3 *2018;*
4 *Recodified from 21 NCAC 16I .0102 Eff. January 1, ~~2020~~2020;*
5 *Amended Eff. July 1, 2023.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0204

DEADLINE FOR RECEIPT: June 9, 2023

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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 paragraph (b), “resume practice” is confusing when applied to “semi-retired dentists”. Do you mean something like “If a retired or semi-retired dentist hygienist wishes to be reclassified under paragraph (a) . . .”?

Could a Class I reclassify as Class II to increase their practice hours? If so, on lines 36 and 37 consider: “the Board shall require the continuing education courses applicable to the less restrictive classification for the . . .”

When capitalized, “State” generally means “State of North Carolina.” On p. 2, lines 10 and 16, capitalizing “State” would restrict the rule to state agencies in the State of North Carolina. So, for example, a North Carolina licensed dentist who worked or volunteered at a Virginia agency would receive no credit. Is this the Board’s intent?

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

Seth Ascher
Commission Counsel
Date submitted to agency: May 24, 2023

1 21 NCAC 16R .0204 is amended as published in 37:16 NCR 1101-02 as follows:

2
3 **21 NCAC 16R .0204 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING**
4 **EDUCATION**

5 (a) Upon receipt of written evidence, the Board ~~may~~will grant exemptions from the mandatory continuing education
6 requirements set out in ~~Rule~~Rules .0201 and .0206 of this Section as follows:

7 (1) A dentist who practices not more than 250 clock hours in a calendar year shall be classified as a
8 semi-retired Class I dentist, and shall: exempt from all continuing education requirements. Such
9 dentists, who shall be known as semi-retired Class I dentists, shall maintain current CPR
10 certification.

11 (A) be exempt from the requirement set out in Rule .0201(a) of this Section to complete 15
12 clock hours of continuing education each calendar year;

13 (B) complete the course required in Rule .0201(b) of this Section if the dentist prescribes
14 controlled substances; and

15 (C) maintain an unexpired CPR certification.

16 (2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be classified as a
17 semi-retired Class II dentist, and shall: exempt from one half of the continuing education courses
18 required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class
19 II dentists, shall maintain current CPR certification.

20 (A) be exempt from one half of the total continuing education hours required in Rule .0201(a)
21 of this Section;

22 (B) complete the course required in Rule .0201(b) of this Section if the dentist prescribes
23 controlled substances;

24 (C) complete the continuing education requirement on substance abuse and mental health set
25 out in Rule .0206 of this Section; and

26 (D) maintain an unexpired CPR certification.

27 (3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education
28 and CPR certification requirements.

29 (4) ~~A dentist who is unable to practice dentistry because of a physical or mental illness may request a~~
30 ~~variance in continuing education hours during the period of the disability. The Board may grant or~~
31 ~~deny requests for variance in continuing education hours based on a disabling condition on a case~~
32 ~~by case basis, taking into consideration the particular disabling condition involved and its effect on~~
33 ~~the dentist's ability to complete the required hours. In considering the request, the Board may require~~
34 ~~additional documentation substantiating any specified disability.~~

35 (b) ~~In those instances where~~ If a dentist who has been exempted from continuing education requirements is waived
36 and the exempt individual wishes to resume practice, the Board shall require continuing education courses for the
37 calendar year in which he or she resumes practice in accordance with Paragraph (a) of this Rule and Rules .0201 and

1 .0206 of this Section when reclassifying the ~~licensee-dentist~~. A dentist who has been classified as retired and wishes
2 to resume practice shall satisfy the reinstatement requirements of 21 NCAC 16B .1101. ~~The Board may require those~~
3 ~~licensees who have not practiced dentistry for a year or more to undergo a bench test before allowing the licensee to~~
4 ~~resume practice if there is evidence that the licensee is unable to practice dentistry competently, such as a failing score~~
5 ~~on a dental licensing examination, a written report of a licensed physician, evaluation conducted by a substance abuse~~
6 ~~treatment facility, appointment of a guardian for the dentist or adjudication of incompetence by a court.~~

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

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

10 (2) service on a ~~full-time~~ full-time basis with a federal, ~~state,~~ State, or county government agency whose
11 operation is related to ~~dentistry, dentistry or dental auxiliaries~~. Verification of credit hours shall be
12 maintained in the manner specified in Rule .0203 of this Section.

13 (d) Dentists who do not work on a full-time basis but work at least 20 hours per week in an institution or entity
14 described in Subparagraph (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.

15 (e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a
16 volunteer basis at any ~~state,~~ State, city, or county operated site. Credit will be given at ratio of 1:5, with one hour credit
17 given for every five hours of volunteer work.

18 (f) Eligible licensees as defined by 21 NCAC 16B .0901 shall be granted a waiver of their mandatory continuing
19 education requirements.

20
21 *History Note: Authority G.S. 90-31.1; 90-38;*

22 *Eff. July 1, 2015;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
24 *2018;*

25 *Amended Eff. July 1, 2023; December 1, 2020.*