

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0303

DEADLINE FOR RECEIPT: July 5, 2024.

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 paragraph (c), why does your agency refer to “Dental Board” rather than “Board” as it’s used throughout the rest of the Rule? Please be consistent for clarity unless there’s a reason for the distinction.

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

Travis Wiggs
Commission Counsel
Date submitted to agency: June 13, 2024

1 21 NCAC 16B .0303 is amended as published in 38:18 NCR 1191 as follows:

2
3 **21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS**

4 (a) All applicants for dental licensure shall achieve a passing score of at least 80 percent on the Board's sterilization
5 and jurisprudence examinations. Applicants may take a reexamination in accordance with Rule .0317 of this Section.

6 (b) All applicants for dental licensure shall achieve passing ~~scores~~ scores, as set by the testing agency, on the
7 examination administered by the Joint Commission on National Dental Examinations and clinical examinations
8 developed and administered by Board approved testing agencies. The Board shall determine which testing agencies
9 are approved based on the requirements set forth in Paragraphs (c) and (d) of this Rule.

10 (c) To qualify as an approved testing agency, the test-development or test-administration agency shall allow a
11 representative of the Dental Board to serve on the agency's Board of Directors and the Examination Review Committee
12 for the limited purpose of allowing Dental Board input in the development and administration of the examination.
13 When Dental Board members offer to participate as examiners for examinations administered in North Carolina, the
14 test-administration agency shall assign at least one of those Dental Board members to each examination administered
15 in North Carolina.

16 (d) To qualify as an approved testing agency, the clinical examination developed or administered by ~~a~~ the testing
17 agency shall:

- 18 (1) include procedures performed on human subjects or an alternative method that simulates human
19 subjects, including manikins, as part of the assessment of restorative clinical competencies;
- 20 (2) include evaluations in clinical periodontics and at least three of the following subject matter areas:
- 21 (A) endodontics, clinical abilities testing;
- 22 (B) amalgam preparation and restoration;
- 23 (C) anterior composite preparation and restoration;
- 24 (D) posterior ceramic or composite preparation and restoration;
- 25 (E) prosthetics, written or clinical abilities testing;
- 26 (F) oral diagnosis, written or clinical abilities testing; or
- 27 (G) oral surgery, written or clinical abilities testing; and
- 28 (3) provide the following:
- 29 (A) anonymity between applicants and examination graders;
- 30 (B) standardization and calibration of graders;
- 31 (C) a mechanism for post exam analysis;
- 32 (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all
33 sections or areas tested and that does not allow weighted, averaged, or overall scoring to
34 compensate for failures in individual subject areas;
- 35 (E) a minimum passing score set by the testing agency for each subject area tested;
- 36 (F) an annual review of the examination conducted by the testing agency;

- 1 (G) a task analysis performed by the testing agency at least once every seven years that surveys
2 dentists nationwide to determine the content of the examination;
- 3 (H) a system of quality assurance to ensure uniform, consistent administration of the
4 examination at each testing site; and
- 5 (I) a system of quality assurance that does not permit a dental instructor to grade candidates
6 at any institution at which the instructor is employed.
- 7 (e) The Board shall accept examination scores for five years following the date of the examinations. Each applicant
8 shall request the applicable entity to send the applicant's scores to the Board office. Individuals who apply for licensure
9 more than five years after the examination date shall re-take the examination.
- 10 (f) The applicant shall comply with all requirements of the testing agency in applying for and taking the examination.

11

12 *History Note: Authority G.S. 90-30; 90-48;*
13 *Eff. September 3, 1976;*
14 *Readopted Eff. September 26, 1977;*
15 *Amended Eff. September 1, 2014; June 1, 2009; March 1, 2006; August 1, 1998; March 1, 1988;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
17 *2018;*
18 *Amended Eff. August 1, 2024; December 1, 2022; October 1, 2019.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0303

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

In paragraph (c), why does your agency refer to "Dental Board" rather than "Board" as it's used throughout the rest of the Rule? Please be consistent for clarity unless there's a reason for the distinction.

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

Travis Wiggs
Commission Counsel

Date submitted to agency: June 13, 2024

1 21 NCAC 16C .0303 is amended as published in 38:18 NCR 1191-92 as follows:

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3 **21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS**

4 (a) All applicants for dental hygiene licensure shall achieve a passing ~~score~~ score of at least 80 percent on the Board's
5 sterilization and jurisprudence examinations. Reexamination shall be governed by Rule .0311 of this Section.

6 (b) All applicants for dental hygiene licensure shall achieve passing ~~scores~~ scores, as set by the testing agency, on the
7 examination administered by the Joint Commission on National Dental Examinations and clinical examinations
8 developed and administered by Board approved testing agencies. The Board shall determine which testing agencies
9 are approved based on the requirements set forth in Paragraphs (c) and (d) of this Rule.

10 (c) To qualify as an approved testing agency, the test-development or test-administration agency shall allow a
11 representative of the Dental Board to serve on the agency's Board of Directors and Examination Review Committee
12 for the limited purpose of allowing Dental Board input in the development and administration of the examination.
13 When Dental Board members offer to participate as examiners for examinations administered in North Carolina, the
14 test-administration agency shall assign at least one of those Dental Board members to each examination administered
15 in North Carolina.

16 (d) To qualify as an approved testing agency, the clinical examination developed or administered by ~~a~~ the testing
17 agency shall:

- 18 (1) include procedures performed on human subjects or an alternative method that simulates human
19 subjects, including manikins, as part of the assessment of clinical competency;
- 20 (2) include probing, supra- and subgingival scaling, and soft tissue management; and
- 21 (3) provide the following:
- 22 (A) anonymity between applicants and examination graders;
- 23 (B) standardization and calibration of graders;
- 24 (C) a mechanism for post exam analysis;
- 25 (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all
26 sections or areas tested and that does not allow weighted, averaged, or overall scoring to
27 compensate for failures in individual subject areas;
- 28 (E) a minimum passing score set by the testing agency for each subject area tested;
- 29 (F) an annual review of the examination conducted by the testing agency;
- 30 (G) a task analysis performed by the testing agency at least once every seven years that surveys
31 dentists nationwide to determine the content of the examination;
- 32 (H) a system of quality assurance to ensure uniform, consistent administration of the
33 examination at each testing site; and
- 34 (I) a system of quality assurance that does not permit a dental hygiene instructor to grade
35 candidates at any institution at which the instructor is employed.

1 (e) The Board shall accept examination scores for five years following the date of the examination. Individuals who
2 apply for licensure more than five years after the examination date shall re-take the examination. Each applicant shall
3 request the applicable entity to send the applicant's scores to the Board office.

4 (f) The applicant shall comply with all requirements of the testing agency in applying for and taking the examination.
5

6 *History Note: Authority G.S. 90-223; 90-224;*
7 *Eff. September 3, 1976;*
8 *Readopted Eff. September 26, 1977;*
9 *Amended Eff. September 1, 2014; June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988;*
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
11 *2018;*
12 *Amended Eff. August 1, 2024; December 1, 2022; September 1, 2020.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16H .0104

DEADLINE FOR RECEIPT: July 5, 2024.

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

In line 5, is "also" necessary?

In lines 6 and 13, consider changing "assisting" to "assistance."

In the History Note, how does G.S. 90-29(c)(9) provide authority for this Rule ?

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

1 21 NCAC 16H .0104 is amended as published in 38:18 NCR 1194-95 as follows:

2
3 **21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS**

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

6 (1) ~~completion of: a dental assisting program accredited by the Commission on Dental Accreditation~~
7 ~~("CODA"), a list of which is available at no cost at coda.ada.org/find-a-program/search-dental-~~
8 ~~programs and is incorporated by reference, including subsequent amendments and editions;~~

9 (A) ~~— an ADA accredited dental assisting program; or~~

10 (B) ~~— one academic year or longer in an ADA accredited dental hygiene program;~~

11 (2) ~~one complete school year or longer in a CODA-accredited dental hygiene program;~~

12 (3) ~~a dental assistant program offered through a branch of the U.S. armed forces at the Medical~~
13 ~~Education & Training Campus that includes a clinical rotation providing dental assisting for live~~
14 ~~patients;~~

15 (2)(4) ~~completion of the Certified Dental Assistant certification examination(s) examinations administered~~
16 ~~by the Dental Assisting National Board; Board ("DANB") with a passing score as set by DANB; or~~

17 (3)(5) ~~completion of: the following:~~

18 (A) employment as a Dental Assistant I for two years of the preceding five, consisting of at
19 least 3,000 hours total; and

20 (B) a 3-hour course in sterilization and infection ~~control; and control,~~ and a 3-hour course in
21 dental office emergencies. The courses shall be offered by Board-approved course sponsors
22 as set out in 21 NCAC 16I .0202.

23 (C) ~~— a 3-hour course in dental office emergencies.~~

24 (b) A Dental Assistant I who has completed the requirements of ~~Parts (a)(3)(B) (C) Part (a)(5)(B)~~ of this Rule but not
25 completed the ~~training-employment hours required~~ pursuant to Part ~~(a)(3)(A) (a)(5)(A)~~ may be trained by a licensed
26 dentist and allowed to perform the functions of a Dental Assistant II, as specified in Rule .0203 of this Subchapter,
27 under the direct control and supervision of a licensed ~~dentist. dentist, except that a Dental Assistant I performing the~~
28 ~~functions of a Dental Assistant II pursuant to this Paragraph shall not perform the coronal polishing function set out~~
29 ~~in Rule .0203(a)(21) of this Subchapter.~~

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

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

36 *History Note: Authority G.S. 90-29(c)(9);*

37 *Eff. September 3, 1976;*

1 *Readopted Eff. September 26, 1977;*
2 *Amended Eff. August 1, 2016; April 1, 2015; August 1, 2000; November 1, 1996; January 1, 1994;*
3 *September 1, 1998; May 1, 1989; October 1, 1986.*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
5 *2018;*
6 *Amended Eff. August 1, 2024; September 1, 2020.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16N .0202

DEADLINE FOR RECEIPT: July 5, 2024.

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

In the History Note, how does G.S. 90-223(b) provide authority for this Rule?

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

Travis Wiggs
Commission Counsel

Date submitted to agency: June 13, 2024

1 21 NCAC 16N .0202 is amended as published in 38:18 NCR 1192 as follows:

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3 **21 NCAC 16N .0202 NOTICE OF MAILING LIST**

4 The Board maintains a mailing list of persons that have requested notice of rulemaking, and sends notices of
5 rulemaking to persons on the mailing list by electronic mail. Any person or agency desiring to be placed on the mailing
6 list for the Board's rulemaking notices may ~~file~~ submit a written request by email, fax, or first-class mail to ~~in~~ the
7 Board's office. The ~~letter of request shall provide the email address to which notices will be sent. should state those~~
8 ~~particular subject areas within the authority of the Board concerning which notice is desired. The~~ If circumstances
9 require that rulemaking notices be sent by first-class mail, the Board may require reasonable postage and stationery
10 costs to be paid by those requesting ~~such~~ the notices.

11

12 *History Note: Authority G.S. 90-48; 90-223(b); 150B-21.2(d);~~150B-12(e);~~*

13 *Eff. August 25, 1977;*

14 *Amended Eff. May 1, 1989; March 1, 1985;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
16 *2018-2018;*

17 *Amended Eff. August 1, 2024.*

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16N .0503

DEADLINE FOR RECEIPT: July 5, 2024.

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

In (a)(3), lines 11-12, the phrase "for some other reason in the interests of justice" is ambiguous and amorphous. How does G.S. 90-28 provide authority for this language?

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

Travis Wiggs
Commission Counsel

Date submitted to agency: June 13, 2024

1 21 NCAC 16N .0503 is amended as published in 38:18 NCR 1193 as follows:

2
3 **21 NCAC 16N .0503 GRANTING OR DENYING HEARING REQUEST**

4 (a) ~~The~~ Upon receipt of a request for a hearing submitted in accordance with Rule .0502 of this Section, the Board
5 will decide whether to grant ~~a request for a hearing~~ the request. Whenever the Board finds good cause exists to deny
6 a request for a hearing, the Board may deny the request. For purposes of this Rule, good cause for denial of a hearing
7 request exists when:

8 (1) the petitioner has not demonstrated a right to an administrative hearing pursuant to Rule .0501 of
9 this Section;

10 (2) the request does not satisfy all the requirements set out in Rule .0502 of this Section; or

11 (3) the Board determines that the request should be denied for some other reason in the interests of
12 justice.

13 (b) The denial of a request for a hearing will be issued in writing immediately upon decision, ~~and in no case~~ later than
14 60 days after the submission of the request. ~~Such~~ The denial shall ~~contain a statement of state~~ the reasons leading the
15 Board to deny the request.

16 (c) Approval of a request for a hearing will be signified by the Board issuing a notice of hearing in accordance with
17 ~~as required by~~ G.S. 150B-38 and ~~explained in~~ Rule .0504 of this Section.

18
19 *History Note: Authority G.S. 90-28; 150B-38;*

20 *Eff. August 25, 1977;*

21 *Amended Eff. May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980;*

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

24 *Amended Eff. August 1, 2024.*