

## Burgos, Alexander N

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**Subject:** FW: [External] Thursday's meeting (RRC COMM)

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**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>

**Sent:** Wednesday, May 28, 2025 11:51 AM

**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; File <file@brockerlawfirm.com>; Doug Brocker <doug@brockerlawfirm.com>

**Subject:** RE: [External] Thursday's meeting (RRC COMM)

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Travis,

We have consulted with our client, and on behalf of the Board, we consent to the removal of the following language in **both** 16B.1101 and 16C.0601: "if the Board determines that the applicant lacks the requisite skills or knowledge to practice dentistry."

It is our understanding that we do not need to resubmit revised versions of these rules, but if you need anything further from us, please let us know.

Thank you,

Whitney

## Burgos, Alexander N

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**Subject:** FW: [External] Thursday's meeting

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**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>

**Sent:** Wednesday, May 28, 2025 10:54 AM

**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] Thursday's meeting

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Travis, we just tried you—let us know a good time to call back. We are available for the next bit.

## Burgos, Alexander N

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**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Wednesday, May 28, 2025 10:52 AM  
**To:** Wiggs, Travis C; Doug Brocker  
**Cc:** Burgos, Alexander N  
**Subject:** RE: [External] Thursday's meeting

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Travis,  
We are going to call you now.

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Wednesday, May 28, 2025 8:39 AM  
**To:** Whitney Waldenberg <Whitney@brockerlawfirm.com>; Doug Brocker <doug@brockerlawfirm.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] Thursday's meeting

I'm cc'ing Mr. Brocker who I believe will be present at the RRC Meeting tomorrow. Please let me know when either of you has time for a quick call today.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Wiggs, Travis C  
**Sent:** Wednesday, May 28, 2025 10:22 AM  
**To:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] Thursday's meeting

Good morning, Whitney,

Do you have time for a quick call about a couple of rules on tomorrow's agenda?

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929

Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>

**Sent:** Tuesday, May 27, 2025 9:57 AM

**To:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>

**Cc:** Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>

**Subject:** [External] Thursday's meeting

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Good morning Travis and Alex,

I am just writing to let you know that Doug Brocker (cc'd here) will be attending in person on Thursday on behalf of the Dental Board.

Thank you,

Whitney



**Whitney Waldenberg\***

Of Counsel

The Brocker Law Firm, P.A.

1135 Kildaire Farm Road, Suite 200 | Cary, NC 27511

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\*Licensed in North Carolina, located outside of the United States

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## Burgos, Alexander N

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**Subject:** FW: [External] Thursday's meeting

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>

**Sent:** Tuesday, May 27, 2025 10:08 AM

**To:** Whitney Waldenberg <Whitney@brockerlawfirm.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Cc:** Doug Bocker <doug@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>

**Subject:** RE: [External] Thursday's meeting

Good morning,

Thank you for the notice.

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>

**Sent:** Tuesday, May 27, 2025 9:57 AM

**To:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>

**Cc:** Doug Bocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>

**Subject:** [External] Thursday's meeting

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Travis and Alex,

I am just writing to let you know that Doug Bocker (cc'd here) will be attending in person on Thursday on behalf of the Dental Board.

Thank you,

Whitney



THE Brocker Law Firm PA

Whitney Waldenberg\*

Of Counsel

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## Burgos, Alexander N

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**Subject:** FW: [External] NC Board of Dental Examiners - Updated Submission for Permanent Adoption

**Attachments:** 21 NCAC 16B .1101.docx; 21 NCAC 16C .0601.docx; 21 NCAC 16Q .0701.docx; 21 NCAC 16W .0101.docx; 21 NCAC 16T .0104 .docx

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**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Monday, May 19, 2025 11:33 AM  
**To:** Rules, Oah <oah.rules@oah.nc.gov>  
**Cc:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>; File <file@brockerlawfirm.com>  
**Subject:** [External] NC Board of Dental Examiners - Updated Submission for Permanent Adoption

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Good morning,

On behalf of the North Carolina Board of Dental Examiners, attached please find the following **updated** revised rules pursuant to the request for technical changes.

- 21 NCAC 16B .1101
- 21 NCAC 16C .0601
- 21 NCAC 16Q .0701
- 21 NCAC 16T .0104
- 21 NCAC 16W .0101
- 

**This is to replace the 5/13/25 submission** pursuant to the request of RRC counsel. Please disregard the submission made on 5/13/25.

Thank you,

Whitney Waldenberg



THE Brocker Law Firm P.A.

**Whitney Waldenberg\***

Of Counsel

The Brocker Law Firm, P.A.

1135 Kildaire Farm Road, Suite 200 | Cary, NC 27511

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\*Licensed in North Carolina, located outside of the United States

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21 NCAC 16B .1101 is amended with changes as published in 39:14 NCR 923-924 as follows:

## SECTION .1100 - REINSTATEMENT

### 21 NCAC 16B .1101 APPLICATION FOR REINSTATEMENT ~~AND PROOF OF COMPETENCY~~

(a) Any person desiring to practice dentistry in North Carolina whose North Carolina dental license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement. All applications for reinstatement of a dental license shall be submitted on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include:

- (1) original dental license number and date of issuance;
- (2) full name;
- (3) street address as of the date of the application;
- (4) telephone number;
- (5) email address;
- (6) citizenship or immigration status, with verifying documentation;
- (7) a statement disclosing and explaining the nature, facts, and disposition of any matter where 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;
- (8) whether the ~~applicant~~ applicant, to their knowledge, is under investigation as of the date of the application or has ever been investigated by the Board or any other licensing board;
- (9) whether the applicant has ever had been a party to a civil lawsuit related to the practice of dentistry settled;
- (10) all dental licenses from other jurisdictions ever held by the applicant, including dates of licensure;

- (11) a statement disclosing all the applicant's dental practices from dental school graduation to the date of the application, including:
- (A) the dates during which the applicant was engaged in practice as a dentist;
  - (B) the addresses of the offices or places at which the applicant was employed or practicing, and the names and addresses of all employers, partners, associates, or persons 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;
- (12) a statement disclosing and explaining any current condition or impairment, including a substance use disorder, abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the applicant's 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;
- (13) two letters of character reference from non-family members;
- (14) 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;
- (15) documentation of the applicant's completion of continuing education courses, as set out in 21 NCAC 16R .0200, the rules of Section .0200 of Subchapter 16R, in amounts equal to the number of hours required for renewal of a dental license; and
- (16) a copy of an unexpired CPR certificate.
- (b) The applicant shall submit to the Board the notarized application form for reinstatement with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable reinstatement application fee set forth in 21 NCAC 16M .0101(a)(8) and the renewal fees set forth in 21 NCAC 16M .0101(a)(2) and (b).
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been licensed in other states, the applicant shall request the dental regulatory authority authority, or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental license license, to send to the Board office, in an unopened envelope sealed by the authority, a sealed envelope or via secure electronic transmission, a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending- pending against the applicant.
- (d) An applicant whose North Carolina license has been revoked, suspended, retired, or expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of information form authorizing

1 the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of  
2 Investigation.

3 (e) An applicant ~~for reinstatement~~ whose North Carolina dental license has been revoked, suspended, retired, or  
4 expired for two to five years shall ~~take~~ submit to the Board evidence of completion of refresher courses as specified  
5 by the Board if the Board determines that the applicant lacks **the requisite** skills or knowledge to practice dentistry.  
6 Refresher courses for an applicant whose license was revoked or suspended shall relate to the deficiencies that led to  
7 the imposition of discipline. Refresher courses for an applicant whose license has been retired or expired shall be  
8 specified by the Board taking into account the amount of time the license has been retired or expired and the applicant's  
9 level of experience.

10 (f) An applicant ~~for reinstatement~~ whose North Carolina dental license has been revoked, suspended, retired, or  
11 expired for more than five years shall pass the American Board of Dental Examiners dental licensure clinical  
12 examinations before applying for reinstatement.

13 (g) The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and  
14 the applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be  
15 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded  
16 as expired without a refund of the application fees.

17 (h) Absent a Board order stating otherwise, an applicant whose North Carolina dental license has been revoked shall  
18 not be eligible to:

19 (1) apply for reinstatement for a period of one year after the effective date of the revocation; or

20 (2) re-apply for reinstatement for a period of one year after the Board's denial of the applicant's previous  
21 application for reinstatement.

22 (i) An application for reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (h)  
23 of this Rule shall be disregarded without a refund of the application fees.

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

25 ~~(h)(k)~~ Any license obtained through fraud or by any false representation shall be ~~revoked~~, **revoked in accordance with**  
26 **the procedures set forth in the rules of Subchapter U and Section .0500 and Section .0600 of Subchapter N.**

27  
28 *History Note: Authority G.S. 90-30; 90-41; 90-42; **90-48**;*

29 *Eff. September 1, 2014;*

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*  
31 *2018;*

32 *Amended Eff. June 1, 2025; September 1, 2020.*

21 NCAC 16C .0601 is amended with changes as published in 39:14 NCR 924-926 as follows:

## **SECTION .0600 – REINSTATEMENT OF DENTAL HYGIENE LICENSE**

### **21 NCAC 16C .0601      APPLICATION FOR REINSTATEMENT ~~AND PROOF OF COMPETENCY~~**

(a) Any person desiring to practice dental hygiene in North Carolina whose North Carolina dental hygiene license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement. All applications for reinstatement of a dental hygiene license shall be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include:

- (1) original dental hygiene license number and date of issuance;
- (2) full name;
- (3) street address as of the date of the application;
- (4) telephone number;
- (5) email address;
- (6) citizenship or immigration status, with verifying documentation;
- (7) a statement disclosing and explaining the nature, facts, and disposition of any matter where 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;
- (8) whether the ~~applicant~~ applicant, to their knowledge, is under investigation as of the date of the application or has ever been investigated by the Board or any other licensing board;
- (9) whether the applicant has ever had been a party to a civil lawsuit related to the practice of dental hygiene settled;
- (10) all dental hygiene licenses from other jurisdictions ever held by the applicant, including dates of licensure;



- (11) a statement disclosing all the applicant's dental hygiene practices, including:
- (A) the dates during which the applicant was employed as a dental hygienist;
  - (B) the name and address of each employer; and
  - (C) the reason for the termination of each employment;
- (12) a statement disclosing and explaining any current condition or impairment, including a substance use disorder, ~~abuse, alcohol abuse,~~ or a mental, emotional, or nervous disorder or condition, that in any way affects the applicant's 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;
- (13) two letters of character reference from non-family members;
- (14) 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;
- (15) documentation of the applicant's completion of continuing education courses, as set out in 21 NCAC 16I, the rules of Section .0200 of Subchapter 16I, in amounts equal to the number of hours required for renewal of a dental hygiene license; and
- (16) a copy of an unexpired CPR certificate.
- (b) The applicant shall submit to the Board the notarized application form for reinstatement with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable reinstatement application fee set forth in 21 NCAC 16M .0102(a)(3) and the renewal fees set forth in 21 NCAC 16M .0102(a)(2) and (b).
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been licensed in other states, the applicant shall request the dental regulatory authority ~~authority,~~ or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental hygiene license ~~license,~~ to send to the Board office, in an unopened envelope sealed by the authority, a sealed envelope or via secure electronic transmission, a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation ~~pending, pending against the applicant.~~
- (d) An applicant whose North Carolina license has been revoked, suspended, retired, or expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history check from the North Carolina State Bureau of Investigation.
- (e) An applicant ~~for reinstatement~~ whose North Carolina dental hygiene license has been revoked, suspended, retired, or expired for two to five years shall ~~take~~ submit to the Board evidence of completion of refresher courses as specified by the Board if the Board determines that the applicant lacks the requisite skills or knowledge to practice dental hygiene. Refresher courses for an applicant whose license was revoked or suspended shall relate to the deficiencies

1 that led to the imposition of discipline. Refresher courses for an applicant whose license has been retired or expired  
2 shall be specified by the Board taking into account the amount of time the license has been retired or expired and the  
3 applicant's level of experience.

4 (f) An applicant ~~for reinstatement~~ whose North Carolina dental hygiene license has been revoked, suspended, retired,  
5 or expired for more than five years shall pass the American Board of Dental Examiners dental hygiene licensure  
6 clinical examinations before seeking reinstatement.

7 (g) The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and  
8 the applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be  
9 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded  
10 as expired without a refund of the application fees.

11 (h) Absent a Board order stating otherwise, an applicant whose North Carolina dental license has been revoked shall  
12 not be eligible to:

13 (1) apply for reinstatement for a period of one year after the effective date of the revocation; or

14 (2) re-apply for reinstatement for a period of one year after the Board's denial of the applicant's previous  
15 application for reinstatement.

16 (i) An application for reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (h)  
17 of this Rule shall be disregarded without a refund of the application fees.

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

19 ~~(i)~~(k) Any license obtained through fraud or by any false representation shall be ~~revoked~~, revoked in accordance with  
20 the procedures set forth in the rules of Subchapter U and Section .0500 and Section .0600 of Subchapter N.

21 *History Note: Authority G.S. 90-223; 90-224; 90-229; 90-48;*

22 *Eff. September 1, 2014;*

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

25 *Amended Eff. June 1, 2025; September 1, 2020.*

21 NCAC 16Q .0701 is amended with changes as published in 39:14 NCR 926 as follows:

## SECTION .0700 – COMPLIANCE AND REPORTING

### 21 NCAC 16Q .0701 FAILURE TO COMPLY

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

(b) Absent a Board order stating otherwise, a dentist whose permit has been revoked shall not be eligible to:

(1) apply for reinstatement of the permit for a period of one year after the effective date of the revocation; or

(2) re-apply for reinstatement of the permit for a period of one year after the Board's denial of the applicant's previous application for reinstatement.

(c) An application for permit reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (b) of this Rule shall be disregarded without a refund of the application fees.

*History Note: Authority G.S. 90-28; 90-30.1; 90-41; 90-48;*

*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, 2018-2018;*

*Amended Eff. June 1, 2025.*

21 NCAC 16T. 0104 is adopted with changes as published in 39:14 NCR 926-927 as follows:

**21 NCAC 16T. 0104 NOTICE AND TRANSFER OF RECORDS UPON CEASING PRACTICE**

(a) Patient Notification Upon Closure of Practice – A dentist who is a sole practitioner and closes a dental practice for reasons other than disciplinary action by the Board shall notify all patients with a pending treatment plan or a scheduled appointment of the closure and consult with the patients on options for continued care and transferring of the patient record to another provider or returning it to the patient. Nothing in this Rule shall alter the dentist’s obligations under Rule .0101 of this Section to retain the patient record unless it is either transferred to another provider or returned to the patient. A dentist shall document the transfer or return of each patient record.

(b) Patient Notification Upon Revocation or Active Suspension of License- Unless an Order of the Board specifies otherwise, a dentist whose license ~~is subject to active suspension~~ actively suspended for a period of 30 days or longer or is revoked by Order of the Board ~~will~~ shall notify all patients with a pending treatment plan or a scheduled appointment of the suspension or revocation in not more than 10 days after the effective date of the active suspension or revocation, the reasons for the suspension or revocation, and consequent inability of the licensee to continue treatment after the effective date of suspension or revocation. The dentist shall advise such patients that the patients may seek treatment from another licensed provider if further treatment is required during the period of active suspension or after the revocation. The dentist shall document the notice in the patient record.

(c) Transfer of Patient Records Upon Revocation or Active Suspension of License– A dentist shall not abandon patient records. Unless otherwise specified by Board Order, ~~in not more than within~~ 30 days after the effective date of an active suspension or revocation of a license, the dentist shall deliver all patient records in his or her possession for each patient with an ongoing treatment plan or a scheduled appointment either to the patient or to another treatment provider as directed by the patient, or document good faith efforts to do so. A dentist shall not transfer patient records containing confidential information to another treatment provider in a different practice without prior consent from the patient. The dentist shall document the consent to transfer in the patient record and the transfer or return of each patient record.

(d) Transfer of Patient Records to Trustee – If the Board determines that patient records have been abandoned by a dentist, including upon the suspension or revocation of a license or the death or disability of a sole practitioner, the Board may seek a judicial order appointing a licensed dentist to act as trustee of the abandoned patient records. The trustee shall take steps to contact each patient for return or transfer of the patient record. The trustee shall not transfer patient records containing confidential information to another treatment provider without prior consent from the patient, documented in the record. Upon the death of a dentist who is not a sole practitioner, a dentist who is an owner or employed in the same practice as the deceased dentist shall take custody of the deceased dentist’s patient records and notify the patients to arrange for continued care either within the practice or by transferring the patient record to another dentist.

(e) Proof of Compliance - A licensee whose license is ~~subject to active suspension~~ actively suspended or revoked by Order of the Board shall keep and maintain records of the steps taken under subsections (b) and (c) of this Rule so

1 that, upon any subsequent proceeding, proof of compliance with this Rule and any Order of the Board shall be available  
2 for the Board to review. Proof of compliance with subsections (b) and (c) shall be a ~~condition precedent prerequisite~~  
3 to consideration of any petition for reinstatement or stay of active suspension. If a trustee was appointed for custody  
4 of the licensee's patient records in accordance with subsection (d) of this Rule, the petitioner must ~~demonstrate,~~  
5 ~~demonstrate to the Board,~~ as ~~conditions precedent prerequisites~~ to consideration for any petition for reinstatement or  
6 stay of active suspension, that ~~there was just cause for~~ the abandonment of the patient records ~~was caused by an~~  
7 ~~impairment, disability or other condition outside of petitioner's control~~ and that the petitioner has paid the trustee or  
8 Board for documented expenses incurred in connection with the custody of the abandoned patient records, even when  
9 ~~just~~ cause is demonstrated.

10  
11 *History Note: Authority G.S. 90-28; 90-41; 90-48; 90-48.1;*  
12 *Eff. June 1, 2025.*  
13

21 NCAC 16T. 0104 is adopted with changes as published in 39:14 NCR 926-927 as follows:

**21 NCAC 16T. 0104 NOTICE AND TRANSFER OF RECORDS UPON CEASING PRACTICE**

(a) Patient Notification Upon Closure of Practice – A dentist who is a sole practitioner and closes a dental practice for reasons other than disciplinary action by the Board shall notify all patients with a pending treatment plan or a scheduled appointment of the closure and consult with the patients on options for continued care and transferring of the patient record to another provider or returning it to the patient. Nothing in this Rule shall alter the dentist’s obligations under Rule .0101 of this Section to retain the patient record unless it is either transferred to another provider or returned to the patient. A dentist shall document the transfer or return of each patient record.

(b) Patient Notification Upon Revocation or Active Suspension of License- Unless an Order of the Board specifies otherwise, a dentist whose license ~~is subject to active suspension~~ actively suspended for a period of 30 days or longer or is revoked by Order of the Board ~~will~~ shall notify all patients with a pending treatment plan or a scheduled appointment of the suspension or revocation in not more than 10 days after the effective date of the active suspension or revocation, the reasons for the suspension or revocation, and consequent inability of the licensee to continue treatment after the effective date of suspension or revocation. The dentist shall advise such patients that the patients may seek treatment from another licensed provider if further treatment is required during the period of active suspension or after the revocation. The dentist shall document the notice in the patient record.

(c) Transfer of Patient Records Upon Revocation or Active Suspension of License– A dentist shall not abandon patient records. Unless otherwise specified by Board Order, ~~in not more than within~~ 30 days after the effective date of an active suspension or revocation of a license, the dentist shall deliver all patient records in his or her possession for each patient with an ongoing treatment plan or a scheduled appointment either to the patient or to another treatment provider as directed by the patient, or document good faith efforts to do so. A dentist shall not transfer patient records containing confidential information to another treatment provider in a different practice without prior consent from the patient. The dentist shall document the consent to transfer in the patient record and the transfer or return of each patient record.

(d) Transfer of Patient Records to Trustee – If the Board determines that patient records have been abandoned by a dentist, including upon the suspension or revocation of a license or the death or disability of a sole practitioner, the Board may seek a judicial order appointing a licensed dentist to act as trustee of the abandoned patient records. The trustee shall take steps to contact each patient for return or transfer of the patient record. The trustee shall not transfer patient records containing confidential information to another treatment provider without prior consent from the patient, documented in the record. Upon the death of a dentist who is not a sole practitioner, a dentist who is an owner or employed in the same practice as the deceased dentist shall take custody of the deceased dentist’s patient records and notify the patients to arrange for continued care either within the practice or by transferring the patient record to another dentist.

(e) Proof of Compliance - A licensee whose license is ~~subject to active suspension~~ actively suspended or revoked by Order of the Board shall keep and maintain records of the steps taken under subsections (b) and (c) of this Rule so

1 that, upon any subsequent proceeding, proof of compliance with this Rule and any Order of the Board shall be available  
2 for the Board to review. Proof of compliance with subsections (b) and (c) shall be a ~~condition precedent prerequisite~~  
3 to consideration of any petition for reinstatement or stay of active suspension. If a trustee was appointed for custody  
4 of the licensee's patient records in accordance with subsection (d) of this Rule, the petitioner must ~~demonstrate,~~  
5 ~~demonstrate to the Board,~~ as ~~conditions precedent prerequisites~~ to consideration for any petition for reinstatement or  
6 stay of active suspension, that ~~there was just cause for~~ the abandonment of the patient records ~~was caused by an~~  
7 ~~impairment, disability or other condition outside of petitioner's control~~ and that the petitioner has paid the trustee or  
8 Board for documented expenses incurred in connection with the custody of the abandoned patient records, even when  
9 ~~just~~ cause is demonstrated.

10  
11 *History Note: Authority G.S. 90-28; 90-41; 90-48; 90-48.1;*  
12 *Eff. June 1, 2025.*  
13

21 NCAC 16W .0101 is amended with changes as published in 39:14 NCR 927 as follows:

## 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)~~ 90-233(a), provided the dentist ordering the procedure, or another dentist designated by the ordering dentist, is accessible, either in person or via [synchronous] teledentistry, for consultation while the hygienist is performing clinical procedures, and to provide any follow-up care the dentist determines to be clinically necessary.

(b) The specific clinical procedures delegated to the hygienist shall be completed, in accordance with a written order from the dentist, within 270 calendar 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. 90-30.2; 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. June 1, 2025; February 1, 2020.



## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

---

**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Wednesday, May 14, 2025 10:38 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Thank you, Travis.

---

**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Wednesday, May 14, 2025 8:37 AM  
**To:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; File <[file@brockerlawfirm.com](mailto:file@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

Approved. Please submit all the final revised rules via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) no later than 5pm on May 23, 2025. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email.

Thank you.

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)  
**Attachments:** 21 NCAC 16T .0104 .docx

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**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Wednesday, May 14, 2025 10:32 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

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We have incorporated that change as well in the attached!

21 NCAC 16T. 0104 is adopted with changes as published in 39:14 NCR 926-927 as follows:

**21 NCAC 16T. 0104 NOTICE AND TRANSFER OF RECORDS UPON CEASING PRACTICE**

(a) Patient Notification Upon Closure of Practice – A dentist who is a sole practitioner and closes a dental practice for reasons other than disciplinary action by the Board shall notify all patients with a pending treatment plan or a scheduled appointment of the closure and consult with the patients on options for continued care and transferring of the patient record to another provider or returning it to the patient. Nothing in this Rule shall alter the dentist’s obligations under Rule .0101 of this Section to retain the patient record unless it is either transferred to another provider or returned to the patient. A dentist shall document the transfer or return of each patient record.

(b) Patient Notification Upon Revocation or Active Suspension of License- Unless an Order of the Board specifies otherwise, a dentist whose license ~~is subject to active suspension~~ actively suspended for a period of 30 days or longer or is revoked by Order of the Board ~~will~~ shall notify all patients with a pending treatment plan or a scheduled appointment of the suspension or revocation in not more than 10 days after the effective date of the active suspension or revocation, the reasons for the suspension or revocation, and consequent inability of the licensee to continue treatment after the effective date of suspension or revocation. The dentist shall advise such patients that the patients may seek treatment from another licensed provider if further treatment is required during the period of active suspension or after the revocation. The dentist shall document the notice in the patient record.

(c) Transfer of Patient Records Upon Revocation or Active Suspension of License– A dentist shall not abandon patient records. Unless otherwise specified by Board Order, ~~in not more than within~~ 30 days after the effective date of an active suspension or revocation of a license, the dentist shall deliver all patient records in his or her possession for each patient with an ongoing treatment plan or a scheduled appointment either to the patient or to another treatment provider as directed by the patient, or document good faith efforts to do so. A dentist shall not transfer patient records containing confidential information to another treatment provider in a different practice without prior consent from the patient. The dentist shall document the consent to transfer in the patient record and the transfer or return of each patient record.

(d) Transfer of Patient Records to Trustee – If the Board determines that patient records have been abandoned by a dentist, including upon the suspension or revocation of a license or the death or disability of a sole practitioner, the Board may seek a judicial order appointing a licensed dentist to act as trustee of the abandoned patient records. The trustee shall take steps to contact each patient for return or transfer of the patient record. The trustee shall not transfer patient records containing confidential information to another treatment provider without prior consent from the patient, documented in the record. Upon the death of a dentist who is not a sole practitioner, a dentist who is an owner or employed in the same practice as the deceased dentist shall take custody of the deceased dentist’s patient records and notify the patients to arrange for continued care either within the practice or by transferring the patient record to another dentist.

(e) Proof of Compliance - A licensee whose license is ~~subject to active suspension~~ actively suspended or revoked by Order of the Board shall keep and maintain records of the steps taken under subsections (b) and (c) of this Rule so

1 that, upon any subsequent proceeding, proof of compliance with this Rule and any Order of the Board shall be available  
2 for the Board to review. Proof of compliance with subsections (b) and (c) shall be a ~~condition precedent prerequisite~~  
3 to consideration of any petition for reinstatement or stay of active suspension. If a trustee was appointed for custody  
4 of the licensee's patient records in accordance with subsection (d) of this Rule, the petitioner must ~~demonstrate,~~  
5 ~~demonstrate to the Board,~~ as ~~conditions precedent prerequisites~~ to consideration for any petition for reinstatement or  
6 stay of active suspension, that ~~there was just cause for~~ the abandonment of the patient records ~~was caused by an~~  
7 ~~impairment, disability or other condition outside of petitioner's control~~ and that the petitioner has paid the trustee or  
8 Board for documented expenses incurred in connection with the custody of the abandoned patient records, even when  
9 ~~just~~ cause is demonstrated.

10  
11 *History Note: Authority G.S. 90-28; 90-41; 90-48; 90-48.1;*  
12 *Eff. June 1, 2025.*  
13

## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)  
**Attachments:** 21 NCAC 16T .0104 .docx

---

**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Wednesday, May 14, 2025 10:11 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Travis,

Please see the revised 16T.0104 attached. Let me know what you think.

Thank you,

Whitney

## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)  
**Attachments:** 21 NCAC 16T .0104 .docx

---

**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Wednesday, May 14, 2025 10:11 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Travis,

Please see the revised 16T.0104 attached. Let me know what you think.

Thank you,

Whitney

21 NCAC 16T. 0104 is adopted with changes as published in 39:14 NCR 926-927 as follows:

**21 NCAC 16T. 0104 NOTICE AND TRANSFER OF RECORDS UPON CEASING PRACTICE**

(a) Patient Notification Upon Closure of Practice – A dentist who is a sole practitioner and closes a dental practice for reasons other than disciplinary action by the Board shall notify all patients with a pending treatment plan or a scheduled appointment of the closure and consult with the patients on options for continued care and transferring of the patient record to another provider or returning it to the patient. Nothing in this Rule shall alter the dentist’s obligations under Rule .0101 of this Section to retain the patient record unless it is either transferred to another provider or returned to the patient. A dentist shall document the transfer or return of each patient record.

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(d) Transfer of Patient Records to Trustee – If the Board determines that patient records have been abandoned by a dentist, including upon the suspension or revocation of a license or the death or disability of a sole practitioner, the Board may seek a judicial order appointing a licensed dentist to act as trustee of the abandoned patient records. The trustee shall take steps to contact each patient for return or transfer of the patient record. The trustee shall not transfer patient records containing confidential information to another treatment provider without prior consent from the patient, documented in the record. Upon the death of a dentist who is not a sole practitioner, a dentist who is an owner or employed in the same practice as the deceased dentist shall take custody of the deceased dentist’s patient records and notify the patients to arrange for continued care either within the practice or by transferring the patient record to another dentist.

(e) Proof of Compliance - A licensee whose license is subject to active suspension or revoked by Order of the Board shall keep and maintain records of the steps taken under subsections (b) and (c) of this Rule so that, upon any

1 subsequent proceeding, proof of compliance with this Rule and any Order of the Board shall be available for the Board  
2 to review. Proof of compliance with subsections (b) and (c) shall be a ~~condition precedent prerequisite~~ to consideration  
3 of any petition for reinstatement or stay of active suspension. If a trustee was appointed for custody of the licensee's  
4 patient records in accordance with subsection (d) of this Rule, the petitioner must ~~demonstrate, demonstrate to the~~  
5 ~~Board, as conditions precedent prerequisites~~ to consideration for any petition for reinstatement or stay of active  
6 suspension, that ~~there was just cause for~~ the abandonment of the patient records ~~was caused by an impairment,~~  
7 ~~disability or other condition outside of petitioner's control~~ and that the petitioner has paid the trustee or Board for  
8 documented expenses incurred in connection with the custody of the abandoned patient records, even when ~~just~~ cause  
9 is demonstrated.

10  
11 *History Note: Authority G.S. 90-28; 90-41; 90-48; 90-48.1;*  
12 *Eff. June 1, 2025.*  
13



## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

---

**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Tuesday, May 13, 2025 4:46 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>  
**Subject:** Re: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

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Ok great, we will make those revisions, along with the highlighting and send the revised rule to you for approval. Please let us know if we should resubmit to the oah email address once you have approved (and if so, the whole package or just the one revised rule).

Thank you for your patience and guidance. This is all helpful for the next time!

---

**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Tuesday, May 13, 2025 2:27:31 PM  
**To:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; File <[file@brockerlawfirm.com](mailto:file@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

Yes, that makes sense.

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

---

**From:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>  
**Sent:** Tuesday, May 13, 2025 4:18 PM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; File <[file@brockerlawfirm.com](mailto:file@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

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Travis,

As far as the change to 16T.0104, when looking at it again, we realized that “conditions precedent” (plural) on line 5 changed to singular, “a prerequisite”. However, language that follows makes clear that there are really 2 prerequisites (showing the cause for abandonment and then also the payment). We propose changing “a prerequisite”(singular) to “prerequisites” (plural) on line 5 and then deleting “just” on line 8.

What do you think? Let me know if that doesn’t make sense.

Thanks,

Whitney

## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

---

**From:** Whitney Waldenberg <Whitney@brokerlawfirm.com>  
**Sent:** Tuesday, May 13, 2025 3:19 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brokerlawfirm.com>; File <file@brokerlawfirm.com>; Sherri Roycroft <sherri@brokerlawfirm.com>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

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Thank you, Travis.

We have submitted the rules to the to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) address as it was my understanding that that needed to be done today. I will forward that email to you shortly so you have it.

We did not highlight the changes in 16T.0104 because that is a brand new rule for adoption, and it was my understanding that those changes don't get highlighted (looking at 26 NCAC 02C .0405 (b)(1) versus (b)(2)). Please let me know if I have misinterpreted that so I don't make that mistake in the future!

Thanks!

Whitney

---

**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Tuesday, May 13, 2025 1:08 PM  
**To:** Whitney Waldenberg <[Whitney@brokerlawfirm.com](mailto:Whitney@brokerlawfirm.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Doug Brocker <[doug@brokerlawfirm.com](mailto:doug@brokerlawfirm.com)>; File <[file@brokerlawfirm.com](mailto:file@brokerlawfirm.com)>; Sherri Roycroft <[sherri@brokerlawfirm.com](mailto:sherri@brokerlawfirm.com)>  
**Subject:** RE: [External] Technical Changes to Rules (Dental Board) (RRC COMM)

Thank you for the changes and responses.

In 21 NCAC 16T .0104, please highlight the changes made as was done in the other rules. Also, on pg. 2, lines 8-9, is "even when just cause is demonstrated" still necessary to include? If you do wish to keep that language, consider deleting "just" since a standard has been inserted into the Rule.

Once you change 16T .0104, please submit the final revised rules via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) no later than 5pm on May 23, 2025. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email.

Thank you.

Travis C. Wiggs  
Rules Review Commission Counsel

Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

---

**Subject:** FW: [External] Technical Changes to Rules (Dental Board) (RRC COMM)  
**Attachments:** 21 NCAC 16B .1101.docx; 21 NCAC 16C .0601.docx; 21 NCAC 16Q .0701.docx; 21 NCAC 16T .0104.docx; 21 NCAC 16W .0101.docx; 2025-05-13 RESPONSE TO - Dental Examiners-Request for Changes (002).docx

---

**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Tuesday, May 13, 2025 2:04 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>  
**Subject:** [External] Technical Changes to Rules (Dental Board) (RRC COMM)

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Travis,

Attached are the revised rules incorporating the technical changes. We will be submitting these revised rules to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) per the instructions provided.

We are also attaching a version of your requests that have our responses in red font, as a guide to what changes were made.

Thank you so much for answering our questions and providing your input.

Whitney



THE Brocker Law Firm P.A.

**Whitney Waldenberg\***

Of Counsel

The Brocker Law Firm, P.A.

1135 Kildaire Farm Road, Suite 200 | Cary, NC 27511

office 919-415-2357 | fax 919-516-9077

[whitney@brockerlawfirm.com](mailto:whitney@brockerlawfirm.com) | [www.brockerlawfirm.com](http://www.brockerlawfirm.com)

\*Licensed in North Carolina, located outside of the United States

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sender at either the e-mail address or telephone number above and delete this e-mail from your computer. Receipt by anyone other than the proper recipient is not a waiver of any attorney-client, work product, or other applicable privilege. Thank you.

**Request for Changes Pursuant to**  
**N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

**Note the following general instructions:**

1. You must submit the revised rule via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
  - Wrong: “~~a~~Association”
  - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
  - Wrong: “day;, and”
  - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:  
[www.ncoah.com/rules/examples.html](http://www.ncoah.com/rules/examples.html)

**If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.**

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1101

**DEADLINE FOR RECEIPT: May 13, 2025.**

***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 (7)(E), line 26, is “or tried” necessary? The other parts of this subparagraph already encompass situations where the applicant could be “tried.” We have deleted “or tried.”*

*In (8), lines 32-33, consider adding “to their knowledge.” Applicants are unable to disclose if they have “ever been investigated” if they were never made aware of the investigation. We have added “to their knowledge”*

*In (9), line 34, consider replacing “had” with “been a party to.” We made this change.*

*On pg. 2, (12), line 9, add “applicant’s” before “ability” for clarity. We made this change.*

*In (15), lines 20-21, replace “21 NCAC 16R .0200” with “the rules of Section .0200 of Subchapter 16R.” We have made this change.*

*In (c), line 27, add a comma after “authority” and after “license” (line 28). We have made this change.*

*Line 31, consider adding “against the applicant” at the end of the sentence. We have made this change.*

*On pg. 3, line 1, consider adding “the requisite” before “skills.” We have made this change.*

*In (k), line 21, who will determine if the license is obtained “through fraud or false representation?” Would this finding be made by the Board after a disciplinary process? We have clarified that the Board will make the determination and added reference to the provisions regarding disciplinary hearings per your request on May 12.*



*Line 23, add G.S. 90-48 to the History Note as authority for this Rule. We made this change.*

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

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0601

**DEADLINE FOR RECEIPT: May 13, 2025.**

***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 (7)(E), line 26, is “or tried” necessary? The other parts of this subparagraph already encompass situations where the applicant could be “tried.” We have deleted “or tried”*

*In (8), lines 32-33, consider adding “to their knowledge.” Applicants are unable to disclose if they have “ever been investigated” if they were never made aware of the investigation. We have added “to their knowledge.”*

*In (9), line 34, consider replacing “had” with “been a party to.” We made this change.*

*On pg. 2, (12), line 6, add “applicant’s” before “ability” for clarity. We made this change.*

*In (15), lines 20-21, replace “21 NCAC 16R .0200” with “the rules of Section .0200 of Subchapter 16I.” We made this change.*

*In (c), line 24, add a comma after “authority” and after “license” (line 25). We made this change.*

*Line 28, consider adding “against the applicant” at the end of the sentence. We made this change.*

*In (e), line 34, consider adding “the requisite” before “skills.” We made this change.*

*On pg. 3, (k), line 18, who will determine if the license is obtained “through fraud or false representation?” Would this finding be made by the Board after a disciplinary process? Per your request on May 12, we have clarified that the Board will make the determination and added reference to the provisions regarding disciplinary hearings.*

*Line 20, add G.S. 90-48 to the History Note as authority for this Rule. We have made this change.*

Travis Wiggs  
Commission Counsel  
Date submitted to agency: April 29, 2025

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: April 29, 2025

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0701

**DEADLINE FOR RECEIPT: May 13, 2025.**

***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 line 6, consider adding “general anesthesia or sedation” before “permit.” We have made this change.*

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

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16T .0104

**DEADLINE FOR RECEIPT: May 13, 2025.**

**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 12, what is meant by “is subject to active suspension?” Consider replacing this language with “has been or will be suspended.” Also, consider adding a comma after “longer” and after “Board” (line 13). We have changed to “actively suspended” and did not add any commas per your recommendation on May 12. We also changed “will” to “shall” pursuant to your May 12 request.*

*In (c), line 20, consider replacing “if not more than” with “within.” We made this change.*

*In (d), I’ve reviewed the emails and documents sent to Mr. Ascher during the pre-review of this Rule. I’m satisfied that your agency has sufficient authority to promulgate this paragraph. Thank you.*

*On pg. 2, lines 2 and 4, consider replacing “condition precedent” with “prerequisite.” We have made this change.*

*Lines 5-6, who will determine if there is “just cause for the abandonment of the patient records”? Would this finding be made by the Board and what standards would be used to make this determination? Per your recommendation on May 12, we added that the Board will make the determination and included a standard.*

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: April 29, 2025

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16W .0101

**DEADLINE FOR RECEIPT: May 13, 2025.**

**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), lines 10-11, is “synchronous teledentistry” defined or regulated in a different rule or law? If so, please provide a citation in this Rule. Per your recommendation, we added a citation to the statute in which “teledentistry” is defined in the authorities section. We also deleted “synchronous” because it is not necessary. The other language in the rule makes clear that the dentist must be accessible while the hygienist is performing the procedure.*

*In (b), line 14, please add “calendar” before “days.”*

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

21 NCAC 16B .1101 is amended with changes as published in 39:14 NCR 923-924 as follows:

## SECTION .1100 - REINSTATEMENT

### 21 NCAC 16B .1101 APPLICATION FOR REINSTATEMENT ~~AND PROOF OF COMPETENCY~~

(a) Any person desiring to practice dentistry in North Carolina whose North Carolina dental license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement. All applications for reinstatement of a dental license shall be submitted on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include:

- (1) original dental license number and date of issuance;
- (2) full name;
- (3) street address as of the date of the application;
- (4) telephone number;
- (5) email address;
- (6) citizenship or immigration status, with verifying documentation;
- (7) a statement disclosing and explaining the nature, facts, and disposition of any matter where 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;
- (8) whether the ~~applicant~~ applicant, to their knowledge, is under investigation as of the date of the application or has ever been investigated by the Board or any other licensing board;
- (9) whether the applicant has ever had been a party to a civil lawsuit related to the practice of dentistry settled;
- (10) all dental licenses from other jurisdictions ever held by the applicant, including dates of licensure;

- (11) a statement disclosing all the applicant's dental practices from dental school graduation to the date of the application, including:
- (A) the dates during which the applicant was engaged in practice as a dentist;
  - (B) the addresses of the offices or places at which the applicant was employed or practicing, and the names and addresses of all employers, partners, associates, or persons 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;
- (12) a statement disclosing and explaining any current condition or impairment, including a substance use disorder, abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the applicant's 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;
- (13) two letters of character reference from non-family members;
- (14) 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;
- (15) documentation of the applicant's completion of continuing education courses, as set out in 21 NCAC 16R .0200, the rules of Section .0200 of Subchapter 16R, in amounts equal to the number of hours required for renewal of a dental license; and
- (16) a copy of an unexpired CPR certificate.
- (b) The applicant shall submit to the Board the notarized application form for reinstatement with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable reinstatement application fee set forth in 21 NCAC 16M .0101(a)(8) and the renewal fees set forth in 21 NCAC 16M .0101(a)(2) and (b).
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been licensed in other states, the applicant shall request the dental regulatory authority authority, or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental license license, to send to the Board office, in an unopened envelope sealed by the authority, a sealed envelope or via secure electronic transmission, a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending- pending against the applicant.
- (d) An applicant whose North Carolina license has been revoked, suspended, retired, or expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of information form authorizing



1 the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of  
2 Investigation.

3 (e) An applicant ~~for reinstatement~~ whose North Carolina dental license has been revoked, suspended, retired, or  
4 expired for two to five years shall ~~take~~ submit to the Board evidence of completion of refresher courses as specified  
5 by the Board if the Board determines that the applicant lacks the requisite skills or knowledge to practice dentistry.  
6 Refresher courses for an applicant whose license was revoked or suspended shall relate to the deficiencies that led to  
7 the imposition of discipline. Refresher courses for an applicant whose license has been retired or expired shall be  
8 specified by the Board taking into account the amount of time the license has been retired or expired and the applicant's  
9 level of experience.

10 (f) An applicant ~~for reinstatement~~ whose North Carolina dental license has been revoked, suspended, retired, or  
11 expired for more than five years shall pass the American Board of Dental Examiners dental licensure clinical  
12 examinations before applying for reinstatement.

13 (g) The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and  
14 the applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be  
15 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded  
16 as expired without a refund of the application fees.

17 (h) Absent a Board order stating otherwise, an applicant whose North Carolina dental license has been revoked shall  
18 not be eligible to:

19 (1) apply for reinstatement for a period of one year after the effective date of the revocation; or

20 (2) re-apply for reinstatement for a period of one year after the Board's denial of the applicant's previous  
21 application for reinstatement.

22 (i) An application for reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (h)  
23 of this Rule shall be disregarded without a refund of the application fees.

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

25 ~~(h)(k)~~ Any license obtained through fraud or by any false representation shall be ~~revoked~~, revoked in accordance with  
26 the procedures set forth in the rules of Subchapter U and Section .0500 and Section .0600 of Subchapter N.

27  
28 *History Note: Authority G.S. 90-30; 90-41; 90-42; 90-48;*

29 *Eff. September 1, 2014;*

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*  
31 *2018;*

32 *Amended Eff. June 1, 2025; September 1, 2020.*

21 NCAC 16C .0601 is amended with changes as published in 39:14 NCR 924-926 as follows:

## **SECTION .0600 – REINSTATEMENT OF DENTAL HYGIENE LICENSE**

### **21 NCAC 16C .0601 APPLICATION FOR REINSTATEMENT ~~AND PROOF OF COMPETENCY~~**

(a) Any person desiring to practice dental hygiene in North Carolina whose North Carolina dental hygiene license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement. All applications for reinstatement of a dental hygiene license shall be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include:

- (1) original dental hygiene license number and date of issuance;
- (2) full name;
- (3) street address as of the date of the application;
- (4) telephone number;
- (5) email address;
- (6) citizenship or immigration status, with verifying documentation;
- (7) a statement disclosing and explaining the nature, facts, and disposition of any matter where 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;
- (8) whether the ~~applicant~~ applicant, to their knowledge, is under investigation as of the date of the application or has ever been investigated by the Board or any other licensing board;
- (9) whether the applicant has ever had been a party to a civil lawsuit related to the practice of dental hygiene settled;
- (10) all dental hygiene licenses from other jurisdictions ever held by the applicant, including dates of licensure;

- (11) a statement disclosing all the applicant's dental hygiene practices, including:
- (A) the dates during which the applicant was employed as a dental hygienist;
  - (B) the name and address of each employer; and
  - (C) the reason for the termination of each employment;
- (12) a statement disclosing and explaining any current condition or impairment, including a substance use disorder, abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the applicant's 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;
- (13) two letters of character reference from non-family members;
- (14) 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;
- (15) documentation of the applicant's completion of continuing education courses, as set out in 21 NCAC 16I, the rules of Section .0200 of Subchapter 16I, in amounts equal to the number of hours required for renewal of a dental hygiene license; and
- (16) a copy of an unexpired CPR certificate.
- (b) The applicant shall submit to the Board the notarized application form for reinstatement with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable reinstatement application fee set forth in 21 NCAC 16M .0102(a)(3) and the renewal fees set forth in 21 NCAC 16M .0102(a)(2) and (b).
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been licensed in other states, the applicant shall request the dental regulatory authority-authority, or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental hygiene license-license, to send to the Board office, in an unopened envelope sealed by the authority, a sealed envelope or via secure electronic transmission, a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending, pending against the applicant.
- (d) An applicant whose North Carolina license has been revoked, suspended, retired, or expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history check from the North Carolina State Bureau of Investigation.
- (e) An applicant ~~for reinstatement~~ whose North Carolina dental hygiene license has been revoked, suspended, retired, or expired for two to five years shall ~~take~~ submit to the Board evidence of completion of refresher courses as specified by the Board if the Board determines that the applicant lacks the requisite skills or knowledge to practice dental hygiene. Refresher courses for an applicant whose license was revoked or suspended shall relate to the deficiencies

1 that led to the imposition of discipline. Refresher courses for an applicant whose license has been retired or expired  
2 shall be specified by the Board taking into account the amount of time the license has been retired or expired and the  
3 applicant's level of experience.

4 (f) An applicant ~~for reinstatement~~ whose North Carolina dental hygiene license has been revoked, suspended, retired,  
5 or expired for more than five years shall pass the American Board of Dental Examiners dental hygiene licensure  
6 clinical examinations before seeking reinstatement.

7 (g) The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and  
8 the applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be  
9 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded  
10 as expired without a refund of the application fees.

11 (h) Absent a Board order stating otherwise, an applicant whose North Carolina dental license has been revoked shall  
12 not be eligible to:

13 (1) apply for reinstatement for a period of one year after the effective date of the revocation; or

14 (2) re-apply for reinstatement for a period of one year after the Board's denial of the applicant's previous  
15 application for reinstatement.

16 (i) An application for reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (h)  
17 of this Rule shall be disregarded without a refund of the application fees.

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

19 ~~(i)~~(k) Any license obtained through fraud or by any false representation shall be ~~revoked.~~ revoked in accordance with  
20 the procedures set forth in the rules of Subchapter U and Section .0500 and Section .0600 of Subchapter N.

21 *History Note: Authority G.S. 90-223; 90-224; 90-229; 90-48;*

22 *Eff. September 1, 2014;*

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

25 *Amended Eff. June 1, 2025; September 1, 2020.*

21 NCAC 16Q .0701 is amended with changes as published in 39:14 NCR 926 as follows:

## SECTION .0700 – COMPLIANCE AND REPORTING

### 21 NCAC 16Q .0701 FAILURE TO COMPLY

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

(b) Absent a Board order stating otherwise, a dentist whose permit has been revoked shall not be eligible to:

(1) apply for reinstatement of the permit for a period of one year after the effective date of the revocation; or

(2) re-apply for reinstatement of the permit for a period of one year after the Board's denial of the applicant's previous application for reinstatement.

(c) An application for permit reinstatement that is received before the applicant is eligible to apply pursuant to Paragraph (b) of this Rule shall be disregarded without a refund of the application fees.

*History Note: Authority G.S. 90-28; 90-30.1; 90-41; 90-48;*

*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, 2018-2018;*

*Amended Eff. June 1, 2025.*

21 NCAC 16T. 0104 is adopted with changes as published in 39:14 NCR 926-927 as follows:

**21 NCAC 16T. 0104 NOTICE AND TRANSFER OF RECORDS UPON CEASING PRACTICE**

(a) Patient Notification Upon Closure of Practice – A dentist who is a sole practitioner and closes a dental practice for reasons other than disciplinary action by the Board shall notify all patients with a pending treatment plan or a scheduled appointment of the closure and consult with the patients on options for continued care and transferring of the patient record to another provider or returning it to the patient. Nothing in this Rule shall alter the dentist’s obligations under Rule .0101 of this Section to retain the patient record unless it is either transferred to another provider or returned to the patient. A dentist shall document the transfer or return of each patient record.

(b) Patient Notification Upon Revocation or Active Suspension of License- Unless an Order of the Board specifies otherwise, a dentist whose license is ~~subject to active suspension~~ actively suspended for a period of 30 days or longer or is revoked by Order of the Board ~~will~~ shall notify all patients with a pending treatment plan or a scheduled appointment of the suspension or revocation in not more than 10 days after the effective date of the active suspension or revocation, the reasons for the suspension or revocation, and consequent inability of the licensee to continue treatment after the effective date of suspension or revocation. The dentist shall advise such patients that the patients may seek treatment from another licensed provider if further treatment is required during the period of active suspension or after the revocation. The dentist shall document the notice in the patient record.

(c) Transfer of Patient Records Upon Revocation or Active Suspension of License– A dentist shall not abandon patient records. Unless otherwise specified by Board Order, ~~in not more than~~ within 30 days after the effective date of an active suspension or revocation of a license, the dentist shall deliver all patient records in his or her possession for each patient with an ongoing treatment plan or a scheduled appointment either to the patient or to another treatment provider as directed by the patient, or document good faith efforts to do so. A dentist shall not transfer patient records containing confidential information to another treatment provider in a different practice without prior consent from the patient. The dentist shall document the consent to transfer in the patient record and the transfer or return of each patient record.

(d) Transfer of Patient Records to Trustee – If the Board determines that patient records have been abandoned by a dentist, including upon the suspension or revocation of a license or the death or disability of a sole practitioner, the Board may seek a judicial order appointing a licensed dentist to act as trustee of the abandoned patient records. The trustee shall take steps to contact each patient for return or transfer of the patient record. The trustee shall not transfer patient records containing confidential information to another treatment provider without prior consent from the patient, documented in the record. Upon the death of a dentist who is not a sole practitioner, a dentist who is an owner or employed in the same practice as the deceased dentist shall take custody of the deceased dentist’s patient records and notify the patients to arrange for continued care either within the practice or by transferring the patient record to another dentist.

(e) Proof of Compliance - A licensee whose license is subject to active suspension or revoked by Order of the Board shall keep and maintain records of the steps taken under subsections (b) and (c) of this Rule so that, upon any

1 subsequent proceeding, proof of compliance with this Rule and any Order of the Board shall be available for the Board  
2 to review. Proof of compliance with subsections (b) and (c) shall be a ~~condition precedent~~ prerequisite to consideration  
3 of any petition for reinstatement or stay of active suspension. If a trustee was appointed for custody of the licensee's  
4 patient records in accordance with subsection (d) of this Rule, the petitioner must ~~demonstrate~~, demonstrate to the  
5 Board, as ~~conditions precedent~~ a prerequisite to consideration for any petition for reinstatement or stay of active  
6 suspension, that ~~there was just cause for the abandonment of the patient records~~ was caused by an impairment,  
7 disability or other condition outside of petitioner's control and that the petitioner has paid the trustee or Board for  
8 documented expenses incurred in connection with the custody of the abandoned patient records, even when just cause  
9 is demonstrated.

10  
11 *History Note: Authority G.S. 90-28; 90-41; 90-48; 90-48.1;*  
12 *Eff. June 1, 2025.*  
13

21 NCAC 16W .0101 is amended with changes as published in 39:14 NCR 927 as follows:

## 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)~~ 90-233(a), provided the dentist ordering the procedure, or another dentist designated by the ordering dentist, is accessible, either in person or via [synchronous] teledentistry, for consultation while the hygienist is performing clinical procedures, and to provide any follow-up care the dentist determines to be clinically necessary.

(b) The specific clinical procedures delegated to the hygienist shall be completed, in accordance with a written order from the dentist, within 270 calendar 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. 90-30.2; 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. June 1, 2025; February 1, 2020.



## Burgos, Alexander N

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**Subject:** FW: [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

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**From:** Whitney Waldenberg <Whitney@brockerlawfirm.com>  
**Sent:** Tuesday, May 13, 2025 9:52 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Thank you, Travis.

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Tuesday, May 13, 2025 7:51 AM  
**To:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>  
**Cc:** Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; File <[file@brockerlawfirm.com](mailto:file@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

Good morning,

Yes, I believe the formatting is okay. Thank you for asking.

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>  
**Sent:** Tuesday, May 13, 2025 9:41 AM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Cc:** Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; File <[file@brockerlawfirm.com](mailto:file@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Travis,

I have one more question before we submit our final versions this afternoon. Are the references to the rules in the excerpt below ok formatting-wise? The rules of Subchapter U cover investigations which would come (chronologically) before formal proceedings set forth in Subchapter N. I thought it would be better to check with you before we submit the revisions.

Any license obtained through fraud or by any false representation shall be ~~revoked~~, revoked in accordance with the procedures set forth in the rules of Subchapter U and Section .0500 and Section .0600 of Subchapter N.

Thank you,

Whitney

## Burgos, Alexander N

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**From:** Wiggs, Travis C  
**Sent:** Tuesday, April 29, 2025 3:16 PM  
**To:** Whitney Waldenberg  
**Cc:** Burgos, Alexander N  
**Subject:** May 2025 RRC Meeting  
**Attachments:** 5.2025 - Dental Examiners-Request for Changes.docx

Good afternoon,

I'm the attorney who reviewed the rules submitted by the Board of Dental Examiners for the May 2025 RRC meeting. The RRC will formally review these rules at its meeting on Thursday, May 29, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get invites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. There are minimal requests for changes due to these rules being pre-reviewed in November 2024. Please submit the revised rules to me via email, no later than 5 p.m. on May 13, 2025. Let me know if you have any questions.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>

**Sent:** Monday, May 12, 2025 4:25 PM

**To:** Whitney Waldenberg <Whitney@brockerlawfirm.com>

**Cc:** Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

Good afternoon,

1. In 16B .1101 and 16C .0601, please include language that makes it clear the Board may only revoke “any license obtained through fraud or by any false representation” after the normal disciplinary process. Please cite or cross-reference the rule(s) where the disciplinary process is located. I reviewed the Board’s rules from the July 31, 2024, RRC meeting and did not see where this language had been approved by the RRC. Please send me the rules you mentioned if you want me to review them.
2. i. Please replace “is subject to active suspension” with “is actively suspended.” I agree that commas won’t be needed after that change. Also, on line 13, consider changing “will” to “shall” if the intent is to impose a duty to “notify all patients...”  
  
ii. Please add “to the Board” after “demonstrate.” Yes, I’m satisfied with the standard you are proposing. Please incorporate it into this Rule.
3. Yes, please add G.S. 90-30.2 to the History Note. I understand the use of the word “synchronous”, but I’m concerned the regulated public might find it confusing. Please consider using “at the same time”, “simultaneous”, or “concurrent” as a replacement.

Please let me know if you have any other questions or would like to have a phone call.

Thanks,

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Whitney Waldenberg <[Whitney@brockerlawfirm.com](mailto:Whitney@brockerlawfirm.com)>

**Sent:** Monday, May 12, 2025 8:58 AM

**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>

**Cc:** Doug Brocker <[doug@brockerlawfirm.com](mailto:doug@brockerlawfirm.com)>; File <[file@brockerlawfirm.com](mailto:file@brockerlawfirm.com)>; Sherri Roycroft <[sherri@brockerlawfirm.com](mailto:sherri@brockerlawfirm.com)>

**Subject:** [External] Few follow-ups from Request for Technical Changes to Dental Board Rules (RRC COMM)

Good morning Travis,

We have just a few follow-up questions about the request for technical changes. I am hopeful that these are easy to address. I am happy to hop on a phone call if it would be easier or more efficient to discuss any of these items:

1. 16B.1101 and 16C.0601: You asked: ***“In (k), ... who will determine if the license is obtained “through fraud or false representation?” Would this finding be made by the Board after a disciplinary process?”*** The Board would only revoke after the normal disciplinary process, although it could summarily suspend the license as it has done before when warranted. Please let us know if you have concerns that you think would require a change---I believe this same language has been approved by the RRC fairly recently in all our application rules, and we are concerned that if we make a change here, we will eventually have to change them all.
2. 16T.0104:
  - i. You asked: ***“In (b), line 12, what is meant by “is subject to active suspension?” Consider replacing this language with “has been or will be suspended.” Also, consider adding a comma after “longer” and after “Board” (line 13).”*** We think that the word “active” is needed to distinguish from stayed suspension, which would not require notification. We could replace with the phrase “is actively suspended” to make it parallel with “or is revoked, . . .” In that case, I don’t think the commas would be needed. Please advise if that change make sense. The other option would be “is revoked, or suspended for 30 days or longer, by Order of the Board, will . . .” Let us know your thoughts.
  - ii. You asked: ***“Lines 5-6, who will determine if there is “just cause for the abandonment of the patient records?” Would this finding be made by the Board and what standards would be used to make this determination?”*** We were thinking of changing to “demonstrate to the Board,” but this would not answer your question about the standard. We could also replace “just cause for the abandonment of the patient records” with the following: “that the abandonment of patient records was caused by an impairment, disability or other condition outside of petitioner’s control and that petitioner . . . .” This would supply the standard. What are your thoughts? Please see G.S. 90-41(a)(7) and 16S.0101 for support.
3. 16W.0101: You asked ***“In (a), lines 10-11, is “synchronous teledentistry” defined or regulated in a different rule or law? If so, please provide a citation in this Rule.”*** “Teledentistry” is defined in G.S. 90-30.2. Should we add that statute to the authorities section? We added the term “synchronous” to indicate at the same time as the hygienist is providing treatment. Please let us know if the issue with this word.

I believe those are the only loose ends we have. Again, I am happy to hop on a call to hammer any of these items out!

Thank you,

Whitney



THE Bocker Law Firm P.A.

## Whitney Waldenberg\*

Of Counsel

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\*Licensed in North Carolina, located outside of the United States

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