

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1101

DEADLINE FOR RECEIPT: August 6, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(7), does the Board request and review this information in compliance with S.L. 2019-91, Sec. 4?

In (a)(13), please define "non-family members."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 23, 2020

21 NCAC 16B .1101 is amended as published in 34:20 NCR 1869-71 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(a) Any person desiring to practice dentistry in North Carolina whose North Carolina dental license has been revoked, suspended, retired, or expired shall submit to the Board an application for reinstatement.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 and no application shall be deemed complete that does not set forth all the information required relative to the applicant.

Incomplete applications shall be returned to the applicant, 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 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 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 substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dentistry. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dentist as set out in G.S. 90-41(a)(2) and (7). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program;
- (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, 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, shall be 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).
- (1) ~~the non refundable reinstatement fee;~~
- (2) ~~two letters of character reference from non family members;~~
- (3) ~~a current report from the National Practitioner Databank;~~
- (4) ~~proof of completion of continuing education courses in clinical patient care from Board approved sponsors, as defined in Rule 16R .0104 of this Chapter in amounts equal to the hours required for renewal of a dental license; and~~
- (5) ~~a copy of current CPR card.~~
- (c) In addition to the requirements of Paragraphs (a) and (b) of this Rule, if the applicant is or has ever been Applicants who are licensed in other states-states, the applicant shall request the dental regulatory authority or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental

1 license to send to the Board office, in an unopened envelope sealed by the authority, a certificate of the applicant's
2 licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending. shall ensure
3 that the Board receives verification of licensure from the board of each state in which they are licensed.

4 (d) ~~Applicants~~ An applicant whose North Carolina license has been revoked, suspended, ~~inactive or lapsed-retired, or~~
5 expired for more than one year shall submit to the Board a completed fingerprint record card and signed release of
6 information form authorizing the Board to request a fingerprint-based form, completed Fingerprint Record Card, and
7 such other form(s) required to perform a criminal history record check from the North Carolina State Bureau of
8 Investigation, check. The form and card are available from the Board office.

9 (e) ~~Applicants~~ An applicant for reinstatement whose North Carolina dental license has been revoked, suspended,
10 ~~inactive or lapsed-retired, or expired~~ for two to five years ~~may be required, at the Board's discretion, to shall~~ take
11 refresher courses ~~on topics as~~ specified by the Board. ~~Refresher courses may be required Board~~ if the Board
12 ~~determines, based upon the facts of the case, determines~~ that the applicant ~~may lack-lacks~~ skills or knowledge to
13 practice dentistry ~~competently~~. Refresher courses for ~~individuals~~ an applicant whose ~~licenses have been~~
14 license was revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher
15 courses for ~~individuals~~ an applicant whose ~~licenses have~~ license has been ~~inactive or lapsed-retired or expired~~ shall be
16 specified by the Board taking ~~take~~ into account the amount of time the license has been ~~inactive or lapsed-retired or~~
17 expired and the ~~individual's~~ applicant's level of experience.

18 (f) ~~Applicants~~ An applicant for ~~seeking~~ reinstatement of a whose North Carolina dental license ~~that~~ has been revoked,
19 suspended, ~~inactive or lapsed-retired, or expired~~ for more than five years ~~must successfully shall~~ pass the ~~clinical~~
20 ~~examination given to first time applicants~~ American Board of Dental Examiners dental licensure clinical examinations
21 before applying for reinstatement.

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

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

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

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

30 *Eff. September 1, 2014;*

31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
32 *2018-2018;*

33 *Amended Eff. September 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0303

DEADLINE FOR RECEIPT: August 6, 2020

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 call our office to inquire concerning the staff recommendation.

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

What is the intent of (c)? Are you requiring testing agencies provide representation on the Board of Directors for purposes of input on the examination or are you requiring full membership on the Board of Directors?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 23, 2020

21 NCAC 16C .0303 is amended as published in 34:20 NCR 1871 as follows:

21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

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

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

(c) ~~Clinical testing~~ To qualify as an approved testing agency, the test-development agencies shall permit allow Board representation on the ~~Board of Directors examination review committee and the Examination Review Committee board of directors of the agency or equivalent committee~~ and allow Board input in the examination development and administration.

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

~~(1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;~~

~~(2)~~ (1) include procedures performed on human subjects as part of the assessment of clinical competency;

~~(3)~~ (2) include probing, ~~supra-supra-~~ and subgingival ~~sealing-scaling~~, and soft tissue management; and

~~(4)~~ (3) provide the following:

(A) anonymity between applicants and examination graders;

(B) standardization and calibration of graders;

(C) a mechanism for post exam analysis;

(D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, ~~averaged-averaged~~, or overall scoring to compensate for failures in individual subject areas;

(E) a minimum passing score set by the testing agency for each subject area tested;

(F) an annual review of the examination;

(G) a task analysis performed at least once every seven years that surveys dentists nationwide to determine the content ~~domain to be scored and how the sections of the examination are scored;~~ of the examination;

(H) a ~~defined~~ system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and

(I) does not permit a dental hygiene instructor to grade candidates at any institution at which the instructor is ~~employed on a full time basis.~~ employed.

(e) The Board shall accept examination scores for five years following the date of the examination. ~~Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.~~ Individuals who apply for

1 licensure more than five years after the examination date ~~must~~shall re-take the ~~examination-examination~~. Each ~~Each~~
2 applicant shall arrange for ~~and ensure that~~ the applicant's scores ~~are to be~~ submitted to the Board office. ~~The applicant~~
3 ~~shall comply with all requirements of such testing agency in applying for and taking the examination.~~

4 (f) ~~The Board shall specify the agencies that will conduct Board approved licensure examinations. The applicant shall~~
5 comply with all requirements of the testing agency in applying for and taking the examination.

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7 *History Note: Authority G.S. 90-224;*

8 *Eff. September 3, 1976;*

9 *Readopted Eff. September 26, 1977;*

10 *Amended Eff. September 1, 2014; June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
12 *~~2018.2018;~~*

13 *Amended Eff. September 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0601

DEADLINE FOR RECEIPT: August 6, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(7), does the Board request and review this information in compliance with S.L. 2019-91, Sec. 4?

In (a)(9), did you intend to refer to the "practice of dental hygiene?"

In (a)(13), please define "non-family members."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 23, 2020

21 NCAC 16C .0601 is amended as published in 34:20 NCR 1871-73 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 and no application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days, 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 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 a civil lawsuit related to the practice of dentistry 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 substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dental hygiene. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dental hygienist as set out in G.S. 90-229(a)(4) and (13). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dental hygienists or other impaired professionals program;
- (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, 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). ~~shall accompany the application.~~
- (c) ~~All applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for more than five years must successfully pass the clinical examination given to first time applicants before seeking reinstatement.~~ 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 or other occupational or professional regulatory authority of each licensing jurisdiction where the applicant holds or has ever held a dental hygiene license to send to the Board office, in an unopened envelope sealed by the authority, a certificate of the applicant's licensure status accompanied by a disclosure of any disciplinary action taken or investigation pending.
- (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.

1 ~~(d)(e)~~ ~~Applicants~~ An applicant for reinstatement whose North Carolina dental hygiene license has been revoked,
2 suspended, ~~inactive or lapsed-retired, or expired~~ for two to five years ~~may, at the Board's discretion, be required to~~
3 shall take refresher courses as specified by the Board. ~~Refresher courses may be required~~ Board if the Board
4 ~~determines, based upon the facts of the case, determines~~ that the applicant ~~may lack-lacks~~ skills or knowledge to
5 practice dental hygiene. ~~hygiene competently~~. Refresher courses for ~~individuals~~ an applicant whose ~~licenses have been~~
6 license was revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher
7 courses for ~~individuals~~ an applicant whose ~~licenses have~~ license has been ~~inactive or lapsed-retired or expired~~ shall be
8 specified by the Board taking ~~take~~ into account the amount of time the license has been ~~inactive or lapsed-retired or~~
9 expired and the ~~individual's~~ applicant's level of experience.

10 ~~(e)~~ ~~Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the~~
11 ~~board of each state in which they are licensed.~~

12 ~~(f)~~ ~~Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year~~
13 ~~shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required~~
14 ~~to perform a criminal history check at the time of the application for reinstatement. The form and card are available~~
15 ~~from the Board office.~~ An applicant for reinstatement whose North Carolina dental hygiene license has been revoked,
16 suspended, retired, or expired for more than five years shall pass the American Board of Dental Examiners dental
17 hygiene licensure clinical examinations before seeking reinstatement.

18 ~~(g)~~ ~~Applicants shall provide proof of continuing education in clinical patient care, by Board approved sponsors, equal~~
19 ~~to the number of hours currently required for the renewal of a dental hygiene license and current CPR certification.~~
20 The Board shall receive all information and documentation set forth in Paragraphs (a) through (e) of this Rule and the
21 applicant's passing scores on any examinations required under Paragraph (f) of this Rule for the application to be
22 complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded
23 as expired without a refund of the application fees.

24 ~~(h)~~ ~~Two letters of character reference from non family members.~~ Any applicant who changes his or her address shall
25 notify the Board office in writing within 10 business days.

26 ~~(i)~~ ~~A report from the National Practitioner Databank.~~ Any license obtained through fraud or by any false representation
27 shall be revoked.

28
29 *History Note: Authority G.S. 90-223; 90-224; 90-229;*

30 *Eff. September 1, 2014;*

31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
32 *2018-2018;*

33 *Amended Eff. September 1, 2020.*

21 NCAC 16F .0104 is amended as published in 34:20 NCR 1874-75 as follows:

21 NCAC 16F .0104 CERTIFICATE OF REGISTRATION

(a) ~~Each professional corporation, association, or limited liability company shall submit an application~~Application for a certificate of registration ~~shall be made in writing to the Board, and shall be submitted upon~~ on the form provided by the Board for that purpose. ~~The application shall be accompanied by a certified copy of the certificate of incorporation and articles of incorporation of a P.A. or P.C. or a certified copy of the articles of organization of a P.L.L.C., together with a check in the amount of fifty dollars (\$50.00) in payment of the registration fee.~~ purpose, and shall include the following information:

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

(b) The application shall be:

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

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

History Note: Authority G.S. 55B-10; 57D-2-01; 90-48;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. August 1, 2009; April 1, 1994; May 1, 1989;

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
2 ~~*2018-2018:*~~
3 *Amended Eff. September 1, 2020.*

21 NCAC 16F .0105 is amended as published in 34:20 NCR 1875 as follows:

21 NCAC 16F .0105 APPLICATION FOR RENEWAL

(a) ~~At least 20 days prior to the date of expiration of the certificate, certificate of registration, the corporation or limited liability company shall submit its written application for renewal upon a form to be provided by the Board. The application must be accompanied by a check in the amount of twenty five dollars (\$25.00) in payment of the renewal fee. Board, and shall include the following information:~~

(1) name of the company as shown on the certificate of registration;

(2) name of the company as of the date of the application for renewal, if the company name has been amended;

(3) street address of the company;

(4) mailing address of the company, if different from the street address;

(5) email address of the company; and

(6) name and dental license number of each dentist practicing under the company.

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

History Note: Authority G.S. 55B-11; 57D-2-01; 90-48;

Eff. September 3, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. April 1, 1994; May 1, 1989;

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

Amended Eff. September 1, 2020.

21 NCAC 16G .0103 is amended as published in 34:20 NCR 1878 as follows:

21 NCAC 16G .0103 PROCEDURES PROHIBITED

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

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

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

1 *Eff. September 3, 1976;*
2 *Readopted Eff. September 26, 1977;*
3 *Amended Eff. August 1, 2016; August 1, 2008; August 1, 2000; May 1, 1989; March 1, 1985;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
5 *2018;*
6 *Amended Eff. September 1, 2020; April 1, 2018.*
7

21 NCAC 16H .0104 is amended as published in 34:20 NCR 1873-74 as follows:

21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS

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

(1) completion of:

(A) an ADA-accredited dental assisting program; or

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

(2) completion of the Dental Assistant certification examination(s) administered by the Dental Assisting National Board; or

(3) completion of:

(A) ~~full-time~~ employment as a Dental Assistant I for two years of the preceding five, consisting of at least 3,000 hours total;

(B) a 3-hour course in sterilization and infection control; and

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

(b) A Dental Assistant I who has completed the requirements of ~~sections Parts (a)(3)(B)-(C) of this Rule~~ but not completed the training pursuant to ~~section (a)(3)(A) may~~ Part (a)(3)(A) may be trained in any dental delivery setting by a licensed dentist and allowed to perform the functions of a Dental Assistant II, as specified in ~~21 NCAC 16H .0203, under Rule .0203 of this Subchapter, under the direct control and supervision of a licensed dentist, dentist,~~ except that a Dental Assistant I performing the functions of a Dental Assistant II pursuant to this Paragraph shall not perform the coronal polishing function set out in Rule .0203(a)(21) of this Subchapter.

(c) ~~An~~ For purposes of this Rule, an unexpired CPR certification as used herein is one that is in effect and valid at the time of classification as a Dental Assistant II and remains so at all times while employed as a Dental Assistant II or while performing any of the permitted functions under ~~21 NCAC 16H .0203, Rule .0203 of this Subchapter.~~

(d) ~~No~~ A Dental Assistant ~~may~~ shall not take radiographs before completing radiology training consistent with G.S. 90-29(c)(12).

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

Eff. September 3, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. August 1, 2016; April 1, 2015; August 1, 2000; November 1, 1996; January 1, 1994; September 1, 1998; May 1, 1989; October 1, 1986.

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

Amended Eff. September 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Dental Examiners

RULE CITATION: 21 NCAC 16I .0101

DEADLINE FOR RECEIPT: August 6, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(8), does the Board request and review this information in compliance with S.L. 2019-91, Sec. 4?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 23, 2020

21 NCAC 16I .0101 is amended as published in 34:20 NCR 1875-76 as follows:

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

SECTION .0100 - ANNUAL RENEWAL

21 NCAC 16I .0101 APPLICATIONS

(a) A renewal application for a dental hygiene license shall be completed and received in the Board's office submitted electronically before midnight on January 31 of each year. Any renewal applications received after that date will require a late fee. year through the Board's website: www.ncdentalboard.org. The renewal application shall include:

(1) dental hygiene license number;

(2) full name;

(3) mailing address and any secondary address the licensee wishes to provide;

(4) telephone number;

(5) fax number;

(6) email address;

(7) citizenship or immigration status, with verifying documentation;

(8) whether, during the calendar year preceding the application, the licensee has:

(A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(H) been disciplined by any professional licensing board; or

(I) had a malpractice suit settled or pending against the licensee;

(9) whether the licensee has been investigated for employee misclassification as an independent contractor within the five years preceding the application;

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

History Note: Authority G.S. 90-227; 93B-15;

Eff. September 3, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. April 1, 2015; February 1, 2008; April 1, 2003; August 1, 1998; May 1, 1989.

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

Amended Eff. September 1, 2020.

21 NCAC 16N .0403 is amended as published in 34:20 NCR 1876 as follows:

21 NCAC 16N .0403 DISPOSITION OF REQUESTS

(a) When the Board deems it appropriate to issue a declaratory ~~ruling~~ it shall issue such the declaratory ruling as soon as practicable but no longer than the period set out in G.S. 150B-4(a1), 60 days after receipt of the ~~petition.~~

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

(c) Whenever the Board ~~believes finds for good cause exists to deny the request for that the issuance of a declaratory~~ ruling, ruling is undesirable, the Board may ~~refuse deny the request to issue such a declaratory ruling. When good~~ cause is deemed to exist, In that event, the Board will shall notify the petitioner of its decision in writing, stating the reasons for the denial of the declaratory ruling.

(d) For purposes of Paragraph (c) of this Rule, good cause for the denial of the Board will ~~ordinarily refuse to issue a~~ declaratory ~~ruling; ruling request may include one of the following:~~

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

History Note: Authority G.S. 150B-4;

Eff. August 25, 1977;

Amended Eff. May 1, 1989; October 1, 1986;

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

Amended Eff. September 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0101

DEADLINE FOR RECEIPT: August 6, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(8), does the Board request and review this information in compliance with S.L. 2019-91, Sec. 4?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 23, 2020

21 NCAC 16R .0101 is amended as published in 34:20 NCR 1876-78 as follows:

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

SECTION .0100 - RENEWAL OF LICENSE

21 NCAC 16R .0101 APPLICATIONS

(a) A renewal application for a dental license shall be ~~completed and received in the Board's office~~ submitted electronically before midnight on January 31 of each ~~year~~. ~~The renewal form may be obtained on the board's year~~ through the Board's website: www.ncdentalboard.org. The renewal application shall include:

(1) dental license number;

(2) full name;

(3) mailing address;

(4) telephone number;

(5) fax number;

(6) email address;

(7) citizenship or immigration status, with verifying documentation;

(8) whether, during the calendar year preceding the application, the licensee has:

(A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;

(H) been disciplined by any professional licensing board; or

(I) had a malpractice suit settled or pending against the licensee;

(9) whether the licensee has been investigated for employee misclassification as an independent contractor within the five years preceding the application;

- 1 (10) employment status as a dentist as of the date of the application, including:
2 (A) whether the licensee is currently working as a dentist;
3 (B) primary practice area;
4 (C) name of the practice in which the licensee provides services;
5 (D) primary setting in which the licensee provides services;
6 (E) number of hours the licensee works in an average week;
7 (F) whether the licensee is self-employed;
8 (G) if not self-employed, the type of employer for which the licensee works; and
9 (H) if self-employed, the number of dentists, hygienists, and dental assistants working in the
10 licensee's practice;
11 (11) a report of the licensee's completion of continuing education hours related to clinical patient care
12 during the calendar year preceding the application, or the licensee's exemption from reporting;
13 (12) whether the licensee is enrolled in or completed a residency program during the calendar year
14 preceding the application;
15 (13) whether the licensee holds an unexpired CPR certification;
16 (14) whether the licensee employed dental hygienists as limited supervision hygienists as set forth in 21
17 NCAC 16Z during the calendar year preceding the application;
18 (15) whether the licensee is registered with and using the N.C. Controlled Substances Reporting System
19 as of the date of the application;
20 (16) whether the licensee has an active U.S. Drug Enforcement Administration license as of the date of
21 the application to prescribe schedule II-IV controlled medications;
22 (17) whether the licensee has completed at least one hour of continuing education in controlled substance
23 prescribing practices and controlled substance prescribing for chronic pain management during the
24 calendar year preceding the application; and
25 (18) a written statement certifying that the information submitted is accurate to the best of the licensee's
26 knowledge.
27 (b) In addition to the requirements of Paragraph (a) of this Rule, the licensee shall mail to the Board the following
28 materials for review by the Board before the license will be renewed:
29 (1) for each matter existing under Subparagraph (a)(8) of this Rule, a statement describing the nature,
30 facts, and disposition of the matter, and include a copy, certified by the clerk of court or the
31 applicable licensing board, of the disposition or judgment in the matter; and
32 (2) for each matter under Subparagraph (a)(9) of this Rule, documentation of the results of the
33 investigation.
34 (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule,
35 accompanied by the renewal fees set forth in 21 NCAC 16M .0101, for the renewal application to be complete. If a
36 renewal application is not complete, the license will not be renewed.

1 ~~(b)(d)~~ Eligible licensees as defined by Rule .0206 of this Subchapter shall be granted an extension period in
2 accordance with 26 U.S.C. 7508 as set out in 21 NCAC 16B .0900 in which to pay license, general anesthesia, and
3 sedation permit renewal fees, obtain CPR certification, renew professional association and corporation registrations
4 and comply with the Dental Board's continuing education rules.

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

6
7 *History Note: Authority G.S. 90-28; 90-31; 90-39; 93B-15;*

8 *Eff. April 1, 2003;*

9 *Amended Eff. July 1, 2015; February 1, 2008;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
11 *2018, 2018;*

12 *Amended Eff. September 1, 2020.*

21 NCAC 16R .0102 is amended as published in 34:20 NCR 1878 as follows:

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

(a) If the application for a renewal certificate, including all information and documentation set out in Rule .0101 of this Subchapter and accompanied by the renewal fees ~~fee~~ required by 21 NCAC 16M .0101, is not received in ~~to~~ the Board's office before midnight on January 31 of each year, an additional fee ~~of fifty dollars (\$50.00)~~ for late renewal shall be charged for the renewal certificate as set out in 21 NCAC 16M .0101.

(b) A fee ~~of twenty-five dollars (\$25.00)~~ shall be charged for each duplicate of any license or certificate issued by the ~~Board.~~ Board as set out in 21 NCAC 16M .0101.

History Note: Authority G.S. 90-31; 90-39;

Eff. April 1, 2003;

Amended Eff. July 1, 2015; February 1, 2008;

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

Amended Eff. September 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0108

DEADLINE FOR RECEIPT: August 6, 2020

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 call our office to inquire concerning the staff recommendation.

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

What is the difference between a "certificate" and a "license?" Does a certificate show a dentist's license has been renewed?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: July 23, 2020

21 NCAC 16R .0108 is amended as published in 34:20 NCR 1878 as follows:

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

If an application for a renewal certificate, including all information and documentation set out in Rule .0101 of this Subchapter and accompanied by the renewal fee and ~~any applicable~~ late filing fees required by 21 NCAC 16M ~~.0101~~ .0101, is not received in the Board's office before midnight on March 31 of each year, the license shall become void and the applicant ~~must~~ shall apply for reinstatement. ~~A copy of the reinstatement application form and the location of the Board's office can be found at www.ncdentalboard.org~~ reinstatement in accordance with 21 NCAC 16B .1101.

History Note: Authority G.S. 90-31; 90-34;

Eff. July 1, 2015;

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

Amended Eff. September 1, 2020.