

21 NCAC 16V .0101 is amended with changes as published in 33:24 NCR 2395-96 as follows:

SUBCHAPTER 16V – UNPROFESSIONAL CONDUCT

SECTION .0100 - UNPROFESSIONAL CONDUCT

21 NCAC 16V .0101 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTIST

Unprofessional conduct by a dentist shall include the following:

- (1) ~~Having~~ having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) ~~Presenting~~ presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;
- (3) ~~Committing~~ [committing] ~~being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature; any act that would constitute [assault or battery, including sexual assault or battery [battery, as defined by Chapter 14 of the North Carolina General Statutes, in connection with the provision of dental services;~~
- (4) ~~Violating~~ violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;
- (5) ~~Conspiring~~ conspiring with any person to commit an act, or committing an act that would tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) ~~Failing~~ failing to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) ~~Prescribing,~~ [prescribing] ~~prescribing,~~ procuring, dispensing, or administering any controlled substance for personal use, which does not include those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) ~~Pre-signing~~ pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) ~~Forgiving~~ forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;

- (10) ~~Failing~~ failing to provide radiation safeguards required by the State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug Administration, ~~and or~~ the Environmental Protection Agency;
- (11) ~~Having~~ having professional connection with or lending one's name to the unlawful practice of ~~dentistry; dentistry, including as set forth in G.S. 90-41(a)(9);~~
- (12) ~~Using~~ using the name of any deceased or retired ~~and licensed~~ dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist;
- (13) ~~Failing~~ failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (14) ~~Failing~~ failing to file a truthful response to a notice of complaint ~~filed with the Board~~ within the time allowed in the notice;
- (15) ~~Failing~~ failing to notify the Board of a change in current ~~primary~~ physical ~~address-address, which shall be either a personal address or a business address at the licensee's election,~~ within 10 business days;
- (16) ~~Permitting~~ permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene ~~tasks; tasks, as set forth in G.S. 90-233(b);~~
- (17) ~~Failing~~ failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;
- (18) ~~Soliciting~~ soliciting employment of potential patients ~~in person or by live~~ telephone ~~solicitation~~ or permitting or directing another to do so;
- (19) ~~Giving~~ giving or ~~paying-accepting~~ anything of value in exchange for a promise to refer or referral of potential patients;
- (20) ~~Failing~~ failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;
- (21) ~~Withholding~~ withholding or refusing to complete a treatment ~~procedure for to~~ an existing patient conditioned upon payment of an outstanding balance;
- (22) ~~Using~~ using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;
- (23) ~~Making~~ making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so;
- (24) ~~Making~~ making ~~material~~ false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board;
- (25) ~~Refusing~~ refusing to permit a Board agent or employee to conduct a sterilization inspection;
- (26) ~~Acquiring~~ acquiring any controlled substance from any source by fraud, deceit or misrepresentation; ~~and~~
- (27) ~~Practicing~~ practicing outside the scope of dentistry, as set forth in G.S. ~~90-29, 90-29; and~~

1 (28) committing any act that would constitute civil assault or civil battery in connection with the
2 provision of dental services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault,
3 and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent
4 amendments and editions. These documents may be accessed at no cost at
5 [https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-](https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases)
6 [carolina-pattern-jury-instructions-civil-cases.](https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases)
7

8 *History Note:* Authority G.S. 90-28; 90-29; 90-41; 90-48; 90-223(b);
9 Eff. August 1, 1998;
10 Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000;
11 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
12 2018. 2018;
13 Amended Eff. ~~October~~ November 1, 2019.
14
15

21 NCAC 16V .0102 is amended with changes as published in 33:24 NCR 2396-97 as follows:

21 NCAC 16V .0102 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTAL HYGIENIST

Unprofessional conduct by a dental hygienist shall include the following:

- (1) ~~Having~~ having professional discipline imposed, including the denial of licensure, by the dental hygiene licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) ~~Presenting~~ presenting false or misleading testimony, statements, or records to the Board or ~~a Board employee~~ the Board's investigator or employees during the scope of any investigation or at any hearing of the Board;
- (3) ~~Committing~~ [committing] ~~being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature; any act that would constitute~~ [assault or battery, including sexual assault or battery [battery,] as defined by Chapter 14 of the North Carolina General Statutes [Statutes,] in connection with the provision of dental hygiene services;
- (4) ~~Violating~~ violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;
- (5) ~~Conspiring~~ conspiring with any person to commit an act, or committing an act that would ~~tend to~~ coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation of any licensee; under the Dental Practice or Dental Hygiene Acts;
- (6) ~~Failing~~ failing to identify to a patient, patient's guardian, an employer, or the Board the name of any person or agent who renders dental treatment or services upon request;
- (7) ~~Procuring,~~ [procuring] ~~procuring,~~ dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) ~~Acquiring~~ acquiring any controlled substance from any pharmacy or other source by misrepresentation, fraud or deception;
- (9) ~~Having~~ having professional connection with or lending one's name to the illegal practice of dental ~~hygiene;~~ hygiene, including as set forth in G.S. 90-229(11);
- (10) ~~Failing~~ failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (11) ~~Failing~~ failing to file a truthful response to a notice of ~~complaint,~~ complaint filed with the Board within the time allowed in the notice;

- (12) ~~Failing~~ failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
- (13) ~~Working~~ working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in the office is greater than 2:1; 2:1, as set forth in G.S. 90-233(b);
- (14) ~~Soliciting~~ soliciting employment of potential patients in person or by telephone or ~~assisting~~ permitting or directing another ~~person~~ to do so;
- (15) ~~Giving~~ giving or ~~paying~~ accepting anything of value in exchange for a promise to refer or referral of potential patients;
- (16) ~~Using~~ using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;
- (17) ~~Making~~ making misleading or untruthful statements for the purpose of procuring potential patients or assisting another to do so;
- (18) ~~Making~~ making ~~material~~ false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigation by the Board; ~~and~~
- (19) ~~Practicing~~ practicing outside the scope of dental hygiene, as defined in 90-221(a); 90-221(a); and
- (20) committing any act that would constitute civil assault or civil battery in connection with the provision of dental hygiene services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

History Note: Authority G.S. 90-29; 90-221; 90-223; 90-229;
Eff. August 1, 1998;
Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000; September 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; 2018;
Amended Eff. ~~October~~ November 1, 2019.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

September 19, 2019

Doug Bocker, Rulemaking Coordinator
North Carolina Board of Dental Examiners
Sent via email only: doug@brockerlawfirm.com

Re: Extension of the Period of Review for Rules 21 NCAC 16V .0101 and .0102

Dear Mr. Bocker:

At its meeting this morning, the Rules Review Commission extended the period of review for Rules 21 NCAC 16V .0101 and .0102 at the request of the agency. Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to the rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Ashley B. Snyder
Commission Counsel

Cc: Dauna Bartley, The Brocker Law Firm

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

Burgos, Alexander N

Subject: FW: [External] RE: Dental Board Technical Changes

From: Dauna Bartley <dauna@brockerlawfirm.com>

Sent: Monday, September 16, 2019 10:31 AM

To: Snyder, Ashley B <ashley.snyder@oah.nc.gov>

Cc: Doug Brocker <doug@brockerlawfirm.com>; Whitney Waldenberg <Whitney@brockerlawfirm.com>; Firm Administrator <administrator@brockerlawfirm.com>

Subject: RE: [External] RE: Dental Board Technical Changes

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov

Ashley,

I am attaching a revised version of 16N .0607 with technical changes to reflect your requests and our discussions. With these edits, we did not find it necessary to add new subparagraphs. We are ready to move forward with this version, if you approve. Please let me know.

For 16V .0101 and .0102, the Board requests an extension of time pursuant to G.S. 150B-21.10 and 150B-21.13.

Please let me know what else you need from me.

Thank you!

Dauna

This transmission is intended by the sender and proper recipient to be confidential, intended only for the proper recipient and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that the dissemination, distribution or copying of this message is strictly prohibited. If you receive this message in error, or are not the proper recipient, please notify the 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 TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16V .0101

DEADLINE FOR RECEIPT: September 13, 2019

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 this Rule, you include some actions in the definition of "unprofessional conduct" that are already prohibited elsewhere in rule or statute. G.S. 90-41(6) already grants the Board authority to discipline a dentist for violations of the Board's Rules or the provisions of G.S. 90, Articles 2 and 16. Why is it necessary to repeat those items here and define them as "unprofessional conduct?" As an example, why is (16) necessary here if it is required by G.S. 90-233(b)? If the items listed in this rule are required elsewhere in statute or rule, please review to determine whether it is necessary to list them here. If it is, please provide a cross-reference to the appropriate statute or rule.

In (3), do you mean "committing" or "conviction for?"

In (5), please delete or define "tend to."

In (7), please add a comma after "prescribing."

In (10), should the "and" be an "or?"

Why is (11) necessary in light of G.S. 90-41(a)(9)?

In (12), what is the purpose of "and licensed" as used here? A deceased or retired dentist would not have a license, correct?

Is (14) limited to a complaint from the Board?

Is it necessary to have (14) and (2)?

In (15), are you asking for a business address or personal address? Please clarify.

In (15), under what circumstances are dentists required to provide notice of a change in address? 21 NCAC 16B .0701 requires notice within 10 business days of address changes for instructor's license applicants, 21 NCAC 16B .1101 requires notice from applicants for reinstatement, 21

Ashley Snyder
Commission Counsel

Date submitted to agency: August 30, 2019

NCAC 16C .0301 requires notice from applicants for licensure, and 21 NCAC 16D .0104 requires notice from applicants for provisional licensure. Are you only defining failure to notify the Board of an address change as unprofessional conduct within the context of these rules?

In (16), does this only apply to dentists in the private sector? See G.S. 90-233(b).

In (18), did you intend for this to only apply to “potential” patients?

In (18), what is the purpose of the word “live?” Is it necessary?

Please compare (18) to .0102(14). Please be consistent with language.

In (19), is the dentist/hygienist prohibited from giving or accepting the item of value?

In (19), define “anything of value.” Do you mean “anything of monetary value?”

In (24), when is a false statement material?

Is (24) necessary? It is similar to (2).

Is it necessary to have both (26) and (7)?

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

21 NCAC 16V .0101 is amended as published in 33:24 NCR 2395-96 as follows:

SUBCHAPTER 16V – UNPROFESSIONAL CONDUCT

SECTION .0100 - UNPROFESSIONAL CONDUCT

21 NCAC 16V .0101 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTIST

Unprofessional conduct by a dentist shall include the following:

- (1) ~~Having~~ having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) ~~Presenting~~ presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;
- (3) ~~Committing~~ committing any act that would constitute assault or battery, including sexual assault or ~~battery~~ battery, as defined by Chapter 14 of the North Carolina General ~~Statutes~~ Statutes, in connection with the provision of dental services;
- (4) ~~Violating~~ violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;
- (5) ~~Conspiring~~ conspiring with any person to commit an act, or committing an act that would tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) ~~Failing~~ failing to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) ~~Prescribing,~~ prescribing procuring, dispensing, or administering any controlled substance for personal use, which does not include those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) ~~Pre-signing~~ pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) ~~Forgiving~~ forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;

- 1 (10) ~~Failing~~ failing to provide radiation safeguards required by the State Department of Health and
2 Human Services, the federal Occupational and Safety Health Administration, the Food and Drug
3 Administration, and the Environmental Protection Agency;
- 4 (11) ~~Having~~ having professional connection with or lending one's name to the unlawful practice of
5 dentistry;
- 6 (12) ~~Using~~ using the name of any deceased or retired and licensed dentist on any office door, directory,
7 stationery, bill heading, or any other means of communication any time after one year following the
8 death or retirement from practice of said dentist;
- 9 (13) ~~Failing~~ failing to comply with any provision of any contract or agreement with the Caring Dental
10 Professionals Program;
- 11 (14) ~~Failing~~ failing to file a truthful response to a notice of complaint within the time allowed in the
12 notice;
- 13 (15) ~~Failing~~ failing to notify the Board of a change in current physical address within 10 business days;
- 14 (16) ~~Permitting~~ permitting more than two dental hygienists for each licensed dentist in the office to
15 perform clinical hygiene tasks;
- 16 (17) ~~Failing~~ failing to produce diagnostic radiographs or other treatment records on request of the Board
17 or its investigator;
- 18 (18) ~~Soliciting~~ soliciting employment of potential patients in person or by live telephone solicitation or
19 permitting or directing another to do so;
- 20 (19) ~~Giving~~ giving or paying anything of value in exchange for a promise to refer or referral of potential
21 patients;
- 22 (20) ~~Failing~~ failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;
- 23 (21) ~~Withholding~~ withholding or refusing to complete a treatment procedure for ~~to~~ an existing patient
24 conditioned upon payment of an outstanding balance;
- 25 (22) ~~Using~~ using protected patient health information, as defined by 45 CFR 160.103, to solicit potential
26 patients;
- 27 (23) ~~Making~~ making misleading or untruthful statements for the purpose of procuring potential patients,
28 or directing or allowing an employee or agent to do so;
- 29 (24) ~~Making~~ making material false statements or omissions in any communication with the Board or its
30 agents regarding the subject of any disciplinary matter under investigations by the Board;
- 31 (25) ~~Refusing~~ refusing to permit a Board agent or employee to conduct a sterilization inspection;
- 32 (26) ~~Acquiring~~ acquiring any controlled substance from any source by fraud, deceit or misrepresentation;
33 and
- 34 (27) ~~Practicing~~ practicing outside the scope of dentistry, as set forth in G.S. 90-29.
- 35

36 *History Note:* Authority G.S. 90-28; 90-29; 90-41; 90-48; 90-223(b);
37 *Eff. August 1, 1998;*

1 *Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000;*

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

4 *Amended Eff. October 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16V .0102

DEADLINE FOR RECEIPT: September 13, 2019

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 this Rule, you include some actions in the definition of "unprofessional conduct" that are already prohibited elsewhere in rule or statute. G.S. 90-229(6) already grants the Board authority to discipline a dental hygienist for violations of the Board's Rules or the provisions of G.S. 90, Articles 2 and 16. Why is it necessary to repeat those items here and define them as "unprofessional conduct?" If the items listed in this rule are required elsewhere in statute or rule, please review to determine whether it is necessary to list them here. If it is, please provide a cross-reference to the appropriate statute or rule.

Please compare the wording in (2) with .0101(2). Please be consistent with language unless there is a reason to word these two items differently.

In (3), do you mean "committing" or "conviction for?"

In (5), please delete or define "tend to."

Please compare the wording in (5) with .0101(5).

In (7), please insert a comma after "procuring."

Is it necessary to have both (7) and (8)?

Is (9) necessary? See 90-229(11).

Is (11) limited to a complaint from the Board?

Is it necessary to have both (11) and (2)?

In (12), are you asking for a change in personal or business address?

In (13), does this only apply to dentists in the private sector? See G.S. 90-233(b).

Ashley Snyder
Commission Counsel
Date submitted to agency: August 30, 2019

Is (13) necessary? See G.S. 90-233(b).

In (14), did you intend for this to only apply to “potential” patients?

Please compare (14) with .0101(18).

Please compare (18) to .0102(14). Please be consistent with language.

In (15), is the dentist/hygienist prohibited from giving or accepting the item of value?

In (15), define “anything of value.” Do you mean “anything of monetary value?”

In (18), when is a false statement material?

Is (18) necessary? It is similar to (2).

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: August 30, 2019

21 NCAC 16V .0102 is amended as published in 33:24 NCR 2396-97 as follows:

21 NCAC 16V .0102 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTAL HYGIENIST

Unprofessional conduct by a dental hygienist shall include the following:

- (1) ~~Having~~ having professional discipline imposed, including the denial of licensure, by the dental hygiene licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) ~~Presenting~~ presenting false or misleading testimony, statements, or records to the Board or a Board employee during the scope of any investigation or at any hearing of the Board;
- (3) ~~Committing~~ committing any act that would constitute ~~assault or battery, including~~ sexual assault or ~~battery~~ battery, as defined by Chapter 14 of the North Carolina General ~~Statutes~~ Statutes, in connection with the provision of dental hygiene services;
- (4) ~~Violating~~ violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;
- (5) ~~Conspiring~~ conspiring with any person to commit an act, or committing an act that would tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any person who testifies or cooperates with the Board during any investigation of any licensee;
- (6) ~~Failing~~ failing to identify to a patient, patient's guardian, an employer, or the Board the name of any person or agent who renders dental treatment or services upon request;
- (7) ~~Procuring,~~ procuring dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) ~~Acquiring~~ acquiring any controlled substance from any pharmacy or other source by misrepresentation, fraud or deception;
- (9) ~~Having~~ having professional connection with or lending one's name to the illegal practice of dental hygiene;
- (10) ~~Failing~~ failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (11) ~~Failing~~ failing to file a truthful response to a notice of complaint, within the time allowed in the notice;
- (12) ~~Failing~~ failing to notify the Board of a change in current physical address within 10 business days;
- (13) ~~Working~~ working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in the office is greater than 2:1;
- (14) ~~Soliciting~~ soliciting employment of potential patients in person or by telephone or assisting another person to do so;

- 1 (15) ~~Giving~~ giving or paying anything of value in exchange for a promise to refer or referral of potential
2 patients;
- 3 (16) ~~Using~~ using protected patient health information, as defined by 45 CFR 160.103, to solicit potential
4 patients;
- 5 (17) ~~Making~~ making misleading or untruthful statements for the purpose of procuring potential patients
6 or assisting another to do so;
- 7 (18) ~~Making~~ making material false statements or omissions in any communication with the Board or its
8 agents regarding the subject of any disciplinary matter under investigation by the Board; and
- 9 (19) ~~Practicing~~ practicing outside the scope of dental hygiene, as defined in 90-221(a).

10

11 *History Note:* Authority G.S. 90-29; 90-221; 90-223; 90-229;
12 Eff. August 1, 1998;
13 Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000; September 1, 1998;
14 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
15 2018, 2018;
16 Amended Eff. October 1, 2019.
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18