

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Dental Examiners

RULE CITATION: All Rules Submitted for Review in Subchapter 16B

RECOMMENDED ACTION:

- Approve, but note staff's comment
- Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
- Failure to comply with the APA
- Extend the period of review

COMMENT:

The Board published these Rules in the February 3, 2014 Register. A 60 day comment period would've ended on April 4, 2014, the Board filed a Notice of Text stating the comment period would end May 20, 2014. G.S. 150B-21.2(f) states that an agency must accept comments for a period of at least 60 days; however, the agency is allowed to lengthen the comment period. The agency did so here, and submitted notice of a 106 day comment period. As such, the North Carolina Register, following the notice submitted by the agency, stated the comment period would end May 20, 2014.

The Board adopted these rules at its May 15, 2014 meeting. Therefore, the rules were adopted before the close of the comment period set by the Board and published in the NC Register. G.S. 150B-21.2(g) states, "An agency shall not adopt a rule until the time for commenting on the proposed text of the rule has elapsed[.]"

Staff recommends the Commission object to these Rules, as they were not adopted in compliance with the Administrative Procedure Act because they were adopted by the agency prior to the close of the comment period.

Amanda J. Reeder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0101

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 9, replace "must" with "shall"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0101 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2

3 **21 NCAC 16B .0101 EXAMINATION REQUIRED; EXEMPTIONS**

4 (a) All persons desiring to practice dentistry in North Carolina are required to pass a Board approved, as set forth in
5 these Rules, written and clinical examinations before receiving a license.

6 (b) The examination requirement does not apply to persons who do not hold a North Carolina dental license and
7 who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules .1001
8 and .1002 of this Subchapter.

9 (c) All persons practicing dentistry in North Carolina must maintain current CPR certification at all times.

10

11 *History Note: Authority G.S. 90-21.107; 90-28; 90-30; 90-36; 90-38; 90-48;*

12 *Eff. September 3, 1976;*

13 *Readopted Eff. September 26, 1977;*

14 *Amended Eff. July 1, 2014; September 1, 2013; March 1, 2006; May 1, 1991; May 1, 1989;*

15 *January 1, 1983.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0201

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, replace "must" with "shall"

I take it your regulated public knows what "DMD" and "DDS" stands for?

In (b), I need a bit of clarification - the applicant must have completed at least two years of dental school and have graduated? As I read G.S. 90-30, all applicants must have graduated from school. I take it that dental school takes at least 2 years to complete, and it cannot take less than two years?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0201 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2

3 **21 NCAC 16B .0201 IN GENERAL**

4 (a) An applicant for licensure as a dentist must be a graduate of and have a DMD or DDS degree from a university
5 or college accredited by the Commission on Dental Accreditation of the American Dental Association.

6 (b) Graduates of foreign colleges may ~~apply be accepted as applicants~~ for licensure after completing at least two
7 years in a dental school accredited by the Commission on Accreditation of the American Dental Association,
8 graduating with a DMD or DDS degree from that dental school, and passing Board approved written and clinical
9 examinations, as set out in these Rules. ~~Rules, and graduating with a DMD or DDS degree from that dental school.~~

10

11 *History Note: Authority G.S. 90-28; 90-30; 90-48;*

12 *Eff. September 3, 1976;*

13 *Readopted Eff. September 26, 1977;*

14 *Amended Eff. July 1, 2014; August 1, 2009; March 1, 2006; May 1, 1989; October 1, 1986.*

15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0202

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On lines 4 and 7, replace "will" with "shall" assuming that is what you mean.

As I understand the Rule, you are allowing student of dental schools to apply. G.S. 90-30(a) states, in relevant part:

The applicant for a license to practice dentistry shall be of good moral character, at least 18 years of age at the time the application is filed. The application for a dental license shall be made to the Board in writing and shall be accompanied by evidence satisfactory to the Board that the applicant is a person of good moral character, has an academic education, the standard of which shall be determined by the Board; that the applicant is a graduate of and has a diploma from a reputable dental college or the dental department of a reputable university or college recognized, accredited and approved as such by the Board; and that the applicant has passed a clinical licensing examination, the standard of which shall be determined by the Board.

How is the Board reconciling the statute with the Rule? Is it your interpretation of the statute that the applicant who has not graduated is sort of a "pre-applicant" for whom you are holding the application pending graduation?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0202 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2

3 **21 NCAC 16B .0202 STUDENT MAY APPLY**

4 Applications for a dental license will be accepted from students currently enrolled in schools of ~~dentistry.~~ dentistry
5 accredited by the Commission on Dental Accreditation of the American Dental Association. ~~Such applications will~~
6 ~~automatically be deemed denied if the applicant should fail to complete the required course of study or fail Board~~
7 ~~approved licensure examinations.~~ Applications will be automatically denied if the applicant fails to complete the
8 required course of study or fails a Board approved licensure examination.

9

10 *History Note: Authority G.S. 90-28; 90-30; 90-48;*

11 *Eff. September 3, 1976;*

12 *Readopted Eff. March 1, 2006; September 26, 1977.*

13 *Amended Eff. July 1, 2014.*

14

15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0301

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, please give the full and correct name of the Rule.

In Paragraph (a), what is in the application? Are you relying upon the guidance of G.S. 90-30(a), or are there other Rules that govern it?

On line 5, replace "which" with "that"

On line 7, state "his or her"

On line 8, it seems you are deleting the period after "credits" without showing it. Just insert the period after "credits" and strike it, thusly "~~credits.~~"

In (c), does the requirement for a photograph apply only to applicants licensed in other states? If not, then it seems it would be better as its own Paragraph.

On line 13, replace "must" with "shall"

I take it the form and card referenced in Paragraph (d) are the ones provided to the Board by the NC Department of Justice, per G.S. 90-30(b)?

In (e), line 20, the citation is to Rules .1001 or .1002.

Also on line 20, remove the underline from [~~Chapter~~].

In (f), replace "must" with "shall" on line 21.

Also on line 21, I do not think you need the comma after "periods"

In Paragraph (f), I take it you are using the new requirements to enforce G.S. 90-30(a), which states:

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

The North Carolina State Board of Dental Examiners may refuse to grant a license to any person guilty of a crime involving moral turpitude, or gross immorality, or to any person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in the opinion of the Board, renders the applicant unfit to practice dentistry.

Is that correct?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0301 is proposed for amendment as published in 28 NCR 15:1718 **with changes** as follows:

2
3 **21 NCAC 16B .0301 APPLICATION FOR LICENSURE**

4 (a) All applications ~~shall be~~ ~~are to be~~ made on the forms furnished by the ~~Board,~~ Board at www.ncdentalboard.org
5 and no application shall be deemed complete which does not set forth all the required
6 information. information required relative to the applicant. Incomplete applications will be returned to the
7 applicant. Any candidate-applicant who changes his address shall immediately-notify the Board office. office within
8 10 business days. Applicants shall ensure that official ~~furnish~~ transcripts of undergraduate college and dental
9 school ~~credits~~ are sent in a sealed envelope to the Board office.

10 (b) The nonrefundable application fee shall accompany the application. ~~Such fee is non-refundable.~~

11 (c) Applicants who are licensed in other states shall ensure that the Board receives ~~furnish~~ verification of licensure
12 from the ~~secretary of the dental~~ board of each state in which they are licensed. A ~~photograph,~~ photograph of the
13 applicant, taken within six months prior to the date of the application, must be affixed to the application.

14 (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such
15 other form(s) required to perform a criminal history check at the time of the application. The form and card are
16 available from the Board office.

17 (e) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required
18 by Rule ~~.0303(e)~~ .0303(b) of this Subchapter, if applicable. The examination requirement does not apply to
19 individuals who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S.
20 90-21.107 or licensure by endorsement pursuant to Rules .1000 or .1002 of this **[Chapter|Subchapter].**

21 (f) All applicants must include a statement disclosing and explaining periods, within the last 10 years, of any
22 voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for
23 substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of
24 any drug treatment program, or impaired dentists or other impaired professionals program.

25
26 *History Note: Authority G.S. 90-28; 90-30; 90-39; 90-48;*
27 *Eff. September 3, 1976;*
28 *Readopted Eff. September 26, 1977;*
29 *Amended Eff. July 1, 2014; March 1, 2006.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0303

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, please give the full and correct name of the Rule.

In (a), line 5, the proper citation is "Rule .0317 of this Subchapter"

On line 9, is the Board still administering examinations? It would seem in light of the changes made to Paragraph (g) (and the repeal of Section .0400 of the Subchapter) that it is not. If that is the case, I believe that may affect the language in (d)(1).

On line 9, are you saying "according to this Rule" as it relates to approval of the testing agencies or as it applies to the portions of the exam?

In (c), line 10, replace "must" with "shall" And I take it that if the Board cannot participate, it will not approve the agency to administer the test?

In (d)(3)(H), end the line with a semicolon and "and"

On Page 2, what are you saying in (e)? Someone has five years from taking an exam to submit those grades to the Board? If he or she does not submit within five years, then the applicant must take another exam?

In (f), line 14, replace "such" with "the"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

21 NCAC 16B .0303 is proposed for amendment as published in 28 NCR 15:1718 with changes as follows:

21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

(a) All applicants for dental licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule ~~16B-0406(e)~~. 16B. 0317 of this Subchapter.

(b) All applicants for dental licensure shall achieve passing scores on Parts I and II of the Dental National Board examination administered by the Joint Commission on National Dental Examinations and written and clinical examinations administered by the Board or Board approved testing agencies according to this Rule.

(c) Test development agencies ~~Clinical testing agencies~~ must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

(d) The clinical examination shall:

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

(2) include procedures performed on human subjects as part of the assessment of restorative clinical competencies;

(3) include evaluations in clinical periodontics and at least ~~four~~ three of the following subject matter areas:

~~(A) periodontics, clinical abilities testing;~~

(A) ~~(B)~~ endodontics, clinical abilities testing;

(B) ~~(C)~~ amalgam preparation and restoration;

(C) ~~(D)~~ anterior composite preparation and restoration;

(D) ~~(E)~~ posterior ceramic or composite preparation and restoration;

(E) ~~(F)~~ cast gold, clinical abilities testing;

(F) ~~(G)~~ prosthetics, written or clinical abilities testing;

(G) ~~(H)~~ oral diagnosis, written or clinical abilities testing; or

(H) ~~(I)~~ oral surgery, written or clinical abilities testing.

(4) provide the following:

(A) anonymity between applicants and examination graders; ~~raters~~;

(B) standardization and calibration of graders; ~~raters~~;

(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 or overall scoring to compensate for failures in individual subject areas;

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

- 1 (F) an annual review of the examination; ~~examination and its technical manual by the Board~~
2 ~~and a psychometrician selected by the Board;~~
- 3 (G) a task analysis performed at least once every seven ~~four~~ years, which surveys dentists ~~on~~
4 ~~a nationwide survey to determine the content domain to be scored and how the sections~~
5 ~~of the examination; examination are scored;~~
- 6 (H) a defined system of quality assurance to ensure uniform, consistent administration of the
7 examination at each testing site; and
- 8 ~~(I) a system of applicant assessment which utilizes raters of applicant performance who are~~
9 ~~not full time employees of any dental academic institution.~~
- 10 (I) does not permit a dental instructor to grade candidates at any institution at which the
11 instructor is employed.

12 (e) The Board shall accept scores upon such examinations for ~~a period of~~ five years following the date of such
13 examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.

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

16 (g) The Board shall determine which examinations meet the criteria set out in Rule .0303(d) of this
17 Subchapter. ~~specify the times, places and agencies which will conduct Board approved licensure examinations in~~
18 ~~the state.~~

19
20 *History Note: Authority G.S. 90-30; 90-48;*

21 *Eff. September 3, 1976;*

22 *Readopted Eff. September 26, 1977;*

23 *Amended Eff. July 1, 2014; June 1, 2009; March 1, 2006; August 1, 1998; March 1, 1988.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0401 - .0406

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Since you are repealing consecutive rules, you need to combine the repeals on one form.

For Rules .0401 - .0405, the Rules have the same effective and repealed dates. Combine those Rule names and citations onto one page, thusly:

SECTION .0400 – LICENSURE BY BOARD CONDUCTED EXAMINATION

- 21 NCAC 16B .0401 APPLICATION FOR BOARD CONDUCTED EXAMINATION**
- 21 NCAC 16B .0402 TIME FOR FILING**
- 21 NCAC 16B .0403 EXAMINATION CONDUCTED BY THE BOARD**
- 21 NCAC 16B .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION**
- 21 NCAC 16B .0405 SCOPE OF BOARD CONDUCTED CLINICAL EXAMINATION**

*History Note: Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48;
 Eff. March 1, 2006;
 Amended Eff. February 1, 2008.
 Repealed Eff.*

Rule .0406, which has a different effective date, should be on its own page.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0401 is proposed for repeal as published in 28 NCR 15:1718 as follows:

2

3 ~~21 NCAC 16B .0401~~ — ~~APPLICATION FOR BOARD CONDUCTED EXAMINATION~~

4 ~~(a) All applications for Board-conducted examination are to be made on the forms furnished by the Board, and no~~
5 ~~application shall be deemed complete which does not set forth all the information required by said Board relative to~~
6 ~~the applicant. Any candidate who changes his address shall immediately notify the Board office.~~

7 ~~(b) The fee for each examination or re-examination must accompany the application. Such fee is non-refundable.~~

8 ~~(c) Two identical photographs of the applicant, taken within six months prior to the date of the application, not over~~
9 ~~two inches in height, must be submitted. One photograph must be affixed to the application and the second~~
10 ~~photograph must be paper-clipped to the application to be used as part of the identification badge.~~

11

12 *History Note: Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48;*

13 *Eff. March 1, 2006.*

14 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16B .0402 is proposed for repeal as published in 28 NCR 15:1718 as follows:

2

3 ~~21 NCAC 16B .0402~~ — **TIME FOR FILING**

4 ~~The completed application, fee, photographs, and undergraduate college and dental school transcripts must be~~
5 ~~received in the Board's office at least 90 days prior to the date of examination. Dental school transcripts for those~~
6 ~~still in dental school must be sent upon graduation. All data received by the Board concerning the applicant shall be~~
7 ~~part of the application and shall be retained as part of the record.~~

8

9 *History Note: Authority G.S. 90-28; 90-30; 90-48;*

10 *Eff. March 1, 2006;*

11 *Amended Eff. February 1, 2008.*

12 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16B .0403 is proposed for repeal as published in 28 NCR 15:1718 as follows:

2

3 ~~21 NCAC 16B .0403~~ — **EXAMINATION CONDUCTED BY THE BOARD**

4 ~~(a) Written instructions designating the subject areas to be covered will be made available to candidates prior to the~~
5 ~~date fixed for each examination.~~

6 ~~(b) Each candidate will be given a numbered badge. This badge will contain the candidate's photograph and will be~~
7 ~~presented to the candidate prior to the examination. The number on the badge will be the only identification allowed~~
8 ~~on any paper or manuscript during this examination. This badge must be returned to the Board at the completion of~~
9 ~~the examination.~~

10 ~~(c) The Board reserves the right to dismiss any candidate who may be detected using or attempting to use any~~
11 ~~assistance not provided as an accommodation. If such violation is discovered by the Board after a license has been~~
12 ~~issued to the violator, the license shall be revoked.~~

13

14 *History Note: Authority G.S. 90-28; 90-30; 90-48;*

15 *Eff. March 1, 2006.*

16 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16B .0404 is proposed for repeal as published in 28 NCR 15:1718 as follows:

2

3 ~~21 NCAC 16B .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL~~
4 ~~EXAMINATION~~

5 ~~Each candidate must furnish his own patients and instruments for the Board conducted clinical examination.~~
6 ~~Additional instructions concerning supplies will be mailed to each candidate. A dental unit, chair, and stand to hold~~
7 ~~instrument cases are available for each candidate.~~

8

9 *History Note: Authority G.S. 90-28; 90-30; 90-48;*

10 *Eff. March 1, 2006.*

11 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16B .0405 is proposed for repeal as published in 28 NCR 15:1718 as follows:

2

3 ~~21 NCAC 16B .0405~~ — **SCOPE OF BOARD CONDUCTED CLINICAL EXAMINATION**

4 ~~(a) The Board conducted clinical examination may cover such of the following subject areas as the Board may~~
5 ~~designate:~~

6 ~~(1) Clinical operative dentistry;~~

7 ~~(2) Oral surgery, radiography, radiographic interpretation and oral diagnosis;~~

8 ~~(3) Fixed and removable prosthodontics;~~

9 ~~(4) Periodontics;~~

10 ~~(5) Simulated clinical procedures;~~

11 ~~(6) Endodontics.~~

12 ~~(b) Each graded procedure will be examined separately by at least three examiners.~~

13 ~~(c) The clinical examination will begin and end promptly as designated.~~

14

15 *History Note: Authority G.S. 90-28; 90-30; 90-48;*

16 *Eff. March 1, 2006.*

17 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16B .0406 is proposed for repeal as published in 28 NCR 15:1718 as follows:

2
3 **~~21 NCAC 16B .0406 — BOARD CONDUCTED REEXAMINATION~~**

4 ~~(a) A complete application is required in case of reexamination. For purposes of this Rule:~~

5 ~~(1) — any person who has taken the clinical portion of the Board conducted clinical examination one~~
6 ~~time without passing, is considered to have failed the clinical portion of the examination; and~~

7 ~~(2) — any person who has taken the written portion of the Board conducted written examination three~~
8 ~~times without passing, is considered to have failed the written portion of the examination.~~

9 ~~(b) Any applicant who has failed the clinical portion of the examination three times, regardless of having passed the~~
10 ~~written portion of the examination, shall successfully complete an additional course of study in clinical dentistry~~
11 ~~encompassing at least one academic year, such course of study as determined by the Board shall be in the area or~~
12 ~~areas of deficiency exhibited on the examination and shall provide additional experience and expertise in clinical~~
13 ~~dentistry for the applicant. Such applicant must send evidence of the additional study, along with the application,~~
14 ~~before being admitted for reexamination.~~

15 ~~(c) Any applicant who has not passed the written portion of the examination may retake the written portion of the~~
16 ~~examination two additional times during the twelve month period from the date of the initial examination. The~~
17 ~~applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who~~
18 ~~has failed the written portion of the examination as defined in Paragraph (a), shall successfully complete an~~
19 ~~additional course of study, such course of study as determined by the Board shall be in the area or areas of~~
20 ~~deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the~~
21 ~~application, before being admitted for reexamination.~~

22 ~~(d) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the~~
23 ~~examination need not retake the written portion of the examination upon subsequent reexamination during one~~
24 ~~calendar year.~~

25
26 *History Note: Authority G.S. 90-28; 90-30; 90-48;*
27 *Eff. April 1, 2006.*
28 *Repealed Eff. July 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0501

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, please give the full and correct name of the Rule.

In Subparagraph (a)(1), what is in the application form? Are you relying upon the guidance of G.S. 90-30(a), or are there other Rules or statutes that govern it?

In Subparagraph (a)(3)(B), line 10, place a semicolon after "internship" and before "and"

In Subparagraph (a)(5), line 16, delete the commas after "periods" and "years"

Also in Subparagraph (a)(5), I take it you are using the new requirements to enforce G.S. 90-30(a), which states:

The North Carolina State Board of Dental Examiners may refuse to grant a license to any person guilty of a crime involving moral turpitude, or gross immorality, or to any person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in the opinion of the Board, renders the applicant unfit to practice dentistry.

Is that correct? And is it the Board's interpretation that this law extends to licensure by credentialing under G.S. 90-36?

End Subparagraph (a)(6), line 21 with a semicolon

In Paragraph (b), line 27, delete the comma after "office"

In Subparagraph (b)(1), line 29, delete "has"

In Subparagraph (b)(3), line 35, I'd begin "a certificate..."

On line 36, delete or define "complete"

On Page 2, Subparagraph (b)(4), I take it your regulated public knows what the National Practitioner Databank is and how to ensure submission from the same?

In (b)(5), line 5, replace "must" with "shall"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

In (b)(6), line 9, I assume that “substantially equivalent” will be determined using Rule 16B .0303 as the lodestar. If that is correct, do you want to reference it here?

Also in (b)(6), line 10, I'd end the sentence after “North Carolina” and begin a new sentence, “The examination shall be...” However, you may choose not to do so.

In (b)(6)(A), line 15, do you need to retain “at least”?

End (b)(A)(vii) with a semicolon, rather than a period and an “and” assuming you mean to require both (A) and (B).

In Paragraph (c), line 35, replace “must” with “shall”

On Page 3, Paragraph (e), line 4, I take it your regulated public knows what “successfully complete” means? Or are you using that to mirror the statutory language in 90-36(d)?

Also in (e), line 8, replace “must” with “shall” And again, the use of “a minimum” in rulemaking is generally discouraged, as the rule sets the minimum standards.

To make sure I understand - In (e), if the individual does not pass within one year, they can never apply again for licensure by credentials?

In (f), the fee is due each time of reapplication? Is that for the individual who takes the exam more than once? If so, I think that needs to be clearer in the Rule.

In (g), “ab initio” needs to be italicized.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0501 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2
3 **21 NCAC 16B .0501 DENTAL LICENSURE BY CREDENTIALS**

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

- 5 (1) a completed, notarized application form provided by the Board;
- 6 (2) the non-refundable licensure by credentials fee;
- 7 (3) an affidavit from the applicant stating for the five years immediately preceding the application:
- 8 (A) the dates that and locations where the applicant has practiced dentistry;
- 9 (B) that the applicant has provided at least ~~5000~~ 5,000 hours of clinical care directly to
- 10 patients, not including post graduate training, residency programs or an internship and
- 11 (C) that the applicant has continuously held an active, unrestricted dental license issued by
- 12 another U.S. state or ~~any~~ U.S. territory;
- 13 (4) ~~if applicable,~~ a statement disclosing and explaining any ~~disciplinary actions,~~ investigations,
- 14 malpractice claims, state or federal agency complaints, judgments, settlements, or criminal
- 15 charges;
- 16 (5) ~~if applicable,~~ a statement disclosing and explaining periods, within the last 10 years, of
- 17 any voluntary or involuntary commitment to any hospital or treatment facility, observation,
- 18 assessment, or treatment for substance abuse, with verification demonstrating that the applicant
- 19 has complied with all provisions and terms of any county or state drug treatment program, or
- 20 impaired dentists or other impaired professionals program;
- 21 (6) a copy of a current CPR certificate ~~an unexpired course completion certification card~~
- 22 ~~in cardiopulmonary resuscitation;~~ and
- 23 (7) a statement disclosing whether or not the applicant holds or has ever held a registration with the
- 24 federal Drug Enforcement Administration (DEA) and whether such registration has ever
- 25 been surrendered ~~surrendered, surrendered for cause,~~ or revoked.

26 (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials

27 shall arrange for and ensure the submission to the Board office, the following documents as a package, with each

28 document in an unopened envelope sealed by the entity involved:

- 29 (1) official transcripts ~~from the applicant's dental school~~ verifying that the applicant has graduated
- 30 from a dental school accredited by the Commission on Dental Accreditation of the American
- 31 Dental Association;
- 32 (2) if the applicant is or has ever been employed as a dentist by or under contract with a federal
- 33 agency, a letter certifying the applicant's current status and disciplinary history from each federal
- 34 agency where the applicant is or has been employed or under contract;
- 35 (3) certificate of the applicant's licensure status from the dental regulatory authority or other
- 36 occupational or professional regulatory authority and complete information regarding any

1 disciplinary action taken or investigation pending, from all licensing jurisdictions where the
2 applicant holds or has ever held a dental license or other occupational or professional license;

3 (4) a report from the National Practitioner Databank;

4 (5) a report of any pending or final malpractice actions against the applicant verified by the
5 malpractice insurance carrier covering the applicant. The applicant must submit a letter of
6 coverage history from all current and all previous malpractice insurance carriers covering the
7 applicant;

8 (6) a score certification letter from a dental professional regulatory board or regional testing agency of
9 a passing score on a clinical licensure examination substantially equivalent to the clinical licensure
10 examination required in North Carolina and such examination shall be administered by the dental
11 professional regulatory board or a regional testing agency. ~~its designated agent other than an~~
12 ~~educational institution~~. The score certification letter shall:

13 (A) state that the examination included procedures performed on human subjects as part of
14 the assessment of restorative clinical competencies and included evaluations
15 in periodontics and at least three ~~four~~ of the following subject areas:

16 ~~(i) — periodontics, clinical abilities testing;~~

17 (i) (ii) endodontics, clinical abilities testing;

18 (ii) (iii) amalgam preparation and restoration;

19 (iii) (iv) anterior composite preparation and restoration;

20 (iv) (v) posterior ceramic or composite preparation and restoration;

21 ~~(vi) — cast gold, clinical abilities testing;~~

22 (v) (vii) prosthetics, written or clinical abilities testing;

23 (vi) (viii) oral diagnosis, written or clinical abilities testing; or

24 (vii) (ix) oral surgery, written or clinical abilities testing.

25 (B) state that licensure examinations after January 1, 1998 included:

26 (i) anonymity between candidates and examination graders; ~~raters~~;

27 (ii) standardization and calibration of graders; ~~raters~~; and

28 (iii) a mechanism for post exam analysis;

29 (7) the applicant's passing score on the Dental National Board Part I and Part II written examination
30 administered by the Joint Commission on National Dental Examinations; and

31 (8) the applicant's passing score on the licensure examination in general dentistry conducted by a
32 regional testing agency or independent state licensure examination substantially equivalent to the
33 clinical licensure examination required in North Carolina as set out in Subparagraph (b)(6) of this
34 Rule.

35 (c) All information required must be completed and received by the Board office as a complete package with the
36 initial application and application fee. Incomplete applications ~~If all of the information is not received as a~~
37 ~~complete package, the application~~ shall be returned to the applicant.

1 (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other
2 form(s) required to perform a criminal history check at the time of the application. The forms are available at the
3 Board office.

4 (e) An applicant for dental licensure by credentials must successfully complete written examinations as set out in
5 G.S. 90-36 and, if deemed necessary based on the applicant's history, a clinical simulation examination administered
6 by the Board. An applicant who fails the written examination may retake it ~~If the applicant fails any of the~~
7 ~~examinations, the applicant may retake the examination failed~~ two additional times during a one year period. The
8 applicant must wait a minimum of 72 hours before attempting to retake a written examination. Individuals who fail
9 the clinical examination or do not pass the written examination after three attempts within one year may not reapply
10 for licensure by credentials.

11 (f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be
12 required.

13 (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

14

15 *History Note: Authority G.S. 90-28; 90-36;*
16 *Temporary Adoption Eff. January 1, 2003;*
17 *Eff. January 1, 2004;*
18 *Recodified from 21 NCAC 16B .0401 Eff. March 1, 2006;*
19 *Amended Eff. July 1, 2014; February 1, 2010.*

20

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0601

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, please capitalize "License"

In Subparagraph (a)(1), what is in the application form? Are you relying upon the guidance of statute or are there other Rules that govern it?

In (a)(3)(B), line 10, state "1,000"

On line 11, remove the comma after "patients" and do you need to retain "for a minimum"? Are you using that term to mirror statute? [90-37.1(d)(1)]

In Subparagraph (a)(4), line 16, delete the commas after "periods" and "years"

Also in Subparagraph (a)(4), I take it you are using the new requirements to enforce G.S. 90-30(a), which states:

The North Carolina State Board of Dental Examiners may refuse to grant a license to any person guilty of a crime involving moral turpitude, or gross immorality, or to any person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in the opinion of the Board, renders the applicant unfit to practice dentistry.

Is that correct? And is it the Board's interpretation that this law extends to licensure by credentialing under G.S. 90-37.1?

In Paragraph (b), line 24, delete the comma after "office"

In (b)(1), line 26, delete "has"

I'd begin (b)(2), line 29, with "a"

In Subparagraph (b)(6), I take it your regulated public knows what the National Practitioner Databank is and how to ensure submission from the same?

In (b)(4), line 37, replace "must" with "shall"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

On Page 2, in (b)(6), lines 5-6, I assume that “substantially equivalent” will be determined using Rule 16B .0303 as the lodestar. If that is correct, do you want to reference it here?

In Paragraph (c), line 8, replace “must” with “shall”

In (e), line 14, I take it your regulated public knows what “successfully complete” means? Or are you using that to mirror the statutory language in 90-37.1(e)?

On line 18, replace “must” with “shall”

Again, so I understand Paragraph (e) – if the applicant fails 3 times in a year, the individual can never apply again for a limited volunteer license? If so, how does that interplay with Paragraph (f)?

In Paragraph (g), “ab initio” should be italicized.

In the History Note, change the period after 2006 to a semicolon.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0601 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2
3 **21 NCAC 16B .0601 LIMITED VOLUNTEER DENTAL LICENSE**

4 (a) An applicant for a limited volunteer dental license shall submit to the Board:

- 5 (1) a completed, notarized application form provided by the Board;
- 6 (2) the non-refundable limited volunteer dental licensure fee;
- 7 (3) an affidavit from the applicant stating:
- 8 (A) for the five years immediately preceding application, the dates that and locations where
- 9 the applicant has practiced dentistry;
- 10 (B) that the applicant has provided at least 1000 hours per year of clinical care directly to
- 11 patients, for a minimum of five years, not including post graduate training, residency
- 12 programs or an internship; and
- 13 (C) that the applicant has provided at least 500 hours of clinical care directly to patients
- 14 within the last five years, not including post graduate training, residency programs or an
- 15 internship;
- 16 (4) ~~if applicable,~~ a statement disclosing and explaining periods, within the last 10 years, of any
- 17 voluntary or involuntary commitment to a hospital or treatment facility, years, of observation,
- 18 assessment, or treatment for substance abuse, with verification from the applicable program
- 19 demonstrating that the applicant has complied with all provisions and terms of any county or state
- 20 drug treatment program, or impaired dentists or other impaired professionals program; and
- 21 (5) a copy of a current CPR certification ~~course completion certification card, card in~~
- 22 ~~cardiopulmonary resuscitation.~~

23 (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a limited volunteer dental license

24 shall arrange for and ensure the submission to the Board office, the following documents as a package, with each

25 document in an unopened envelope sealed by the entity involved:

- 26 (1) official transcripts verifying that the applicant has graduated from a dental school ~~documentation~~
- 27 ~~of graduation from a dental school~~ accredited by the Commission on Dental Accreditation of the
- 28 American Dental Association;
- 29 (2) certificate of the applicant's licensure status from the dental regulatory authority or other
- 30 occupational or professional regulatory authority and, if applicable, of the applicant's authorization
- 31 to treat veterans or personnel enlisted in the United States armed services, and information
- 32 regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions
- 33 where the applicant holds or has ever held a dental license or other occupational or professional
- 34 license;
- 35 (3) a report from the National Practitioner Databank;
- 36 (4) a report of any pending or final malpractice actions against the applicant verified by the
- 37 malpractice insurance carrier covering the applicant. The applicant must submit a letter of

1 coverage history from all current and all previous malpractice insurance carriers covering the
2 applicant;

3 (5) the applicant's passing score on the Dental National Board Part I and Part II written examination
4 administered by the Joint Commission on National Dental Examinations; and

5 (6) the applicant's passing score on a licensure examination in general dentistry substantially
6 equivalent to the clinical licensure examination required in North Carolina, conducted by a
7 regional testing agency or a state licensing board.

8 (c) All information required must be completed and received by the Board office as a complete package with the
9 initial application and application fee. Incomplete applications ~~If all of the information is not received as a complete~~
10 ~~package, the application~~ shall be returned to the applicant.

11 (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such
12 other form(s) required to perform a criminal history check at the time of the application. The forms are available at
13 the Board.

14 (e) An applicant for limited volunteer dental license must successfully complete written examinations as set out in
15 G.S. 90-37.1 and, if deemed necessary by the Board based on the applicant's history, a clinical simulation
16 examination administered by the Board. An applicant who fails the written exam may retake it ~~If the applicant fails~~
17 ~~any of the examinations, the applicant may retake the examination failed~~ two additional times during a one year
18 period. The applicant must wait a minimum of 72 hours before attempting to retake a written
19 examination. Applicants who fail the clinical examination or who do not pass the written examination after three
20 attempts in one year may not reapply for a limited volunteer dental license.

21 (f) Should the applicant reapply for a limited volunteer dental license, an additional limited volunteer dental license
22 fee shall be required.

23 (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

24 (h) The license may be renewed on an annual basis provided that the licensee provides documentation that he or she
25 has practiced a minimum of 100 hours, completed continuing education requirements as required in Subchapter 16R
26 of these Rules and has current CPR certification.

27
28 *History Note: Authority G.S. 90-28; 90-37.1;*
29 *Temporary Adoption Eff. January 1, 2003;*
30 *Eff. January 1, 2004;*
31 *Recodified from 21 NCAC 16B .0501 Eff. March 1, 2006.*
32 *Amended Eff. July 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0701

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Subparagraph (a)(1), what is in the application form? Are you relying upon the guidance of statute or are there other Rules that govern it?

Also in (a)(1), I note this is the first time you state the Board's website address in this subparagraph. Why do you do it here, but not in the previous rules?

By requiring a photograph in (a)(3), this is different from the previous licensure rules. I take it this is on purpose?

In (a)(4), so I'm clear, the form and card are not available on the Board's website?

In Subparagraph (a)(6), line 15, delete the commas after "periods" and "years"

Also in Subparagraph (a)(4), I take it you are using the new requirements to enforce G.S. 90-30(a), which states:

The North Carolina State Board of Dental Examiners may refuse to grant a license to any person guilty of a crime involving moral turpitude, or gross immorality, or to any person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in the opinion of the Board, renders the applicant unfit to practice dentistry.

Is that correct? And is it the Board's interpretation that this law extends to licensure for instructors pursuant to G.S. 90-29.5, relying upon the language in subsection (c), "the holder of an instructor's license shall be subject to the provisions of this Article."?

I'd begin (b)(2) and (b)(5) with "a"

In Subparagraph (b)(3), I take it your regulated public knows what the National Practitioner Databank is and how to ensure submission from the same? And what the international equivalent is? And why do these individuals use the international database, but not other licensure categories?

In (b)(4), line 33, replace "must" with "shall"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

In (c), Page 2, line 4, replace “must” with “shall”

Just so I understand, when would Paragraph (e) occur?

In Paragraph (f), “ab initio” should be italicized.

In (g), line 13, the citation is “Rule 16R .0102 of this Chapter.”

In the History Note, change the period after 2006 to a semicolon.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0701 is proposed for amendment as published in 28 NCR 15:1718 **with changes** as follows:

2
3 **21 NCAC 16B .0701 INSTRUCTOR'S LICENSE**

4 (a) An applicant for an instructor's license shall submit to the Board:

- 5 (1) a completed, notarized application form provided by the ~~Board;~~ Board at www.ncdentalboard.org.
- 6 (2) the non-refundable instructor's licensure fee;
- 7 (3) ~~a photograph of the applicant, taken within six months prior to the date of the application, affixed~~
8 ~~to the application.~~
- 9 (4) ~~a signed release form and completed Fingerprint Record Card, and other form(s) required to~~
10 ~~perform a criminal history check at the time of the application. The form and card are available~~
11 ~~from the Board office.~~
- 12 (3) (5) ~~if applicable,~~ a statement disclosing and explaining any disciplinary actions, investigations,
13 malpractice claims, state or federal agency complaints, judgments, settlements, or criminal
14 charges; ~~and~~
- 15 (4) (6) ~~if applicable,~~ a statement disclosing and explaining periods, within the last ten years, of any
16 voluntary or involuntary commitment to any hospital or treatment facility, observation,
17 assessment, or treatment for substance abuse, with verification demonstrating that the applicant
18 has complied with all provisions and terms of any county or state drug treatment program, or
19 impaired dentists or other impaired professionals program; and program.
- 20 (7) ~~a current CPR card.~~

21 (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an instructor's license shall ~~arrange~~
22 ~~for and~~ ensure the submission to the Board **office, office of** the following documents as a package, with each
23 document in an unopened envelope sealed by the entity involved:

- 24 (1) if the applicant is or has ever been employed as a dentist by or under contract with an agency or
25 organization, a certification letter of the applicant's current status and disciplinary history from
26 each agency or organization where the applicant is or has been employed or under contract;
- 27 (2) certificate of the applicant's licensure status from the dental regulatory authority or other
28 occupational or professional regulatory authority and information regarding all disciplinary actions
29 taken or investigations pending, from all licensing jurisdictions where the applicant holds or has
30 ever held a dental license or other occupational or professional license;
- 31 (3) a report from the National Practitioner Databank or its international equivalent, if applicable;
- 32 (4) a report of any pending or final malpractice actions against the applicant, verified by the
33 malpractice insurance carrier covering the applicant. The applicant must submit a letter of
34 coverage history from all current and all previous malpractice insurance carriers covering the
35 applicant; and
- 36 (5) certification letter from the dean or director that the applicant has met or been approved under the
37 credentialing standards of a dental school or an academic medical center with which the person is

1 to be affiliated, and certification that such school or medical center is accredited by the American
2 Dental Association's Commission on Accreditation or the Joint Commission on Accreditation of
3 Health Care Organizations.

4 (c) All information required must be completed and received by the Board office as a complete package with the
5 initial application and application fee. Incomplete applications ~~If all of the information is not received as a complete~~
6 ~~package, the application~~ shall be returned to the applicant.

7 ~~(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such~~
8 ~~other form(s) required to perform a criminal history check at the time of the application.~~

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

10 (e) Should the applicant reapply for an instructor's license, an additional instructor's license fee shall be required.

11 (f) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

12 (g) The license shall be renewed on an annual basis, basis- [as set out in 21 NCAC16R] as set out in Rule 16R .0102
13 of this Subchapter .

14
15 *History Note: Authority G.S. 90-28; 90-29.5;*
16 *Temporary Adoption Eff. January 1, 2003;*
17 *Eff. January 1, 2004;*
18 *Recodified from 21 NCAC 16B .0601 Eff. March 1, 2006.*
19 *Amended Eff. July 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0801

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Subparagraph (a)(1), what is in the application form? Are you relying upon the guidance of statute or are there other Rules that govern it?

In (a)(1), line 5, replace the semicolon after "Board" with a comma"

On line 6, delete the comma after "applicant"

In (a)(3), line 10, so I understand – the license is for a calendar year and not a set time (such as, all licenses expire January 31)?

In (a)(4), line 15, replace "must" with "shall"

On line 19, replace "must" with "shall"

In (b), doesn't the sentence on lines 19 through 20 repeat the sentence in (a)(4), line 15 through 16?

In (c), line 21, do not underline and strike the same language. Replace "must" with "shall" Remove the colon.

On line 22, state "Subparagraphs (a)(2) – (4) of this Rule,"

On Page 2, line 1, replace "must" with "shall"

In (d), I assume you are referring to the information required in Paragraph (c)? And the "complete" package is the information required in (c)?

On line 3, replace "must" with "shall"

In (e), replace "must" with "shall" However, I question whether you need this – isn't this a repetition of (b), lines 19-20 and (d), lines 3-4?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

In the History Note, change the period after 2008 to a semicolon.

Also in the History Note, I am assuming you are relying upon G.S. 90-37.2. If so, that needs to be in the History Note. If not, then what are you relying upon for authority for this Rule?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0801 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2
3 **21 NCAC 16B .0801 TEMPORARY VOLUNTEER DENTAL PERMIT**

4 (a) An applicant for a Temporary Volunteer Dental License shall submit to the Board:

- 5 (1) A completed, notarized application form provided by the Board; with a photograph of the
6 applicant, taken within six months of the application date attached;
7 (2) A statement from all jurisdictions in which the applicant is now or has ever been licensed,
8 disclosing the applicant's disciplinary history and current status of the applicant's license;
9 (3) A statement signed by a N.C. licensed dentist agreeing to provide supervision or direction to the
10 temporary volunteer dentist, stating where, within the next calendar year, such supervision or
11 direction will occur, and affirming that no fee or monetary compensation of any kind will be paid
12 to the applicant for dental services performed; and
13 (4) A statement signed by the applicant stating where the applicant will practice, the type of facility
14 where the practice will occur, the duration of the practice, the name of the supervising dentist, and
15 affirming that no fee will be charged or accepted. The applicant must update the information
16 within five days of any changes in the practice location or facility.

17 (b) All information required must be completed and received in the Board office as a complete package at least two
18 weeks prior to the issuance of the license. Incomplete applications ~~If all required information is not received, the~~
19 ~~application~~ shall be returned to the applicant. The applicant must report any changes to submitted information
20 within five days of when the applicant knew or should have known of the changes.

21 (c) To renew the Temporary Volunteer Dental License the licensee ~~must~~ must submit: the information required in
22 (a)(2) – (4) of this Rule, along with an affidavit stating that the information on the original application is correct and
23 requires no update or correction.

- 24 (1) ~~Submit an affidavit stating that all information on the original application is correct and requires~~
25 ~~no update or correction;~~
26 (2) ~~A certificate of licensure from all jurisdictions in which the applicant is currently licensed~~
27 ~~certifying that the applicant holds a valid unrestricted license to practice general dentistry, is~~
28 ~~currently in good standing, and has never been disciplined;~~
29 (3) ~~A statement signed by a NC licensed dentist agreeing to provide supervision or direction to the~~
30 ~~temporary volunteer dentist, where, within the next calendar year, such supervision or direction is~~
31 ~~to occur, and affirming that no fee or monetary compensation of any kind will be paid to the~~
32 ~~licensee for dental services performed; and~~
33 (4) ~~A statement signed by the applicant stating where the applicant will practice, the type of facility~~
34 ~~where the practice will occur, the duration of the practice, the name of the supervising dentist, and~~
35 ~~affirming that no fee will be charged or accepted. The applicant must update the information~~
36 ~~within five days of any changes in the practice location or facility.~~

1 (d) All required information must be completed and received in the Board office as a complete package at least two
2 weeks prior to the renewal of the license. Incomplete applications ~~If all required information is not received, the~~
3 ~~renewal application~~ shall be returned to the applicant. The applicant licensee must report any changes to submitted
4 information within five days of when the licensee knew or should have known of the changes.

5 (e) Licensees must notify the Board within five days after any changes in their practice location or facility.

6

7 *History Note: Authority G.S. 90-29; 90-37.1;*

8 *Eff. February 1, 2008.*

9 *Amended Eff. July 1, 2014.*

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0901

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On line 4, do you mean "Section," rather than "Subchapter"? I think you do.

In the History Note, change the period after 2010 to a semicolon.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .0901 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2

3 **21 NCAC 16B .0901 DEFINITIONS**

4 The following definitions apply only to this Subchapter:

5 (1) "Dental Board" -- the North Carolina State Board of Dental Examiners.

6 (2) "Eligible licensees"-- all dentists currently licensed by and in good standing with the North
7 Carolina State Board of Dental Examiners who are serving in the armed forces of the United
8 States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

9 (3) "Extension period" -- the time period disregarded pursuant to 26 U.S.C. 7508.

10 (4) "Good standing" -- a dentist whose license is not ~~suspended or revoked.~~ suspended, revoked or
11 subject to a probationary order.

12

13 *History Note: Authority G.S. 90-28; 93B-15;*

14 *Eff. April 1, 2010.*

15 *Amended Eff. July 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1002

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a)(5), line 21, please delete the comma after "periods" and "years"

I assume in (a)(8) that this is one of the methods the Board is requiring to determine competency to practice in the profession, as set forth in G.S. 93B-15.1(b)(2)?

In (b), line 30, change "must" to "shall"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16B .1002 is proposed for amendment as published in 28 NCR 15:1718 as follows:

2
3 **21 NCAC 16B .1002 DENTAL LICENSURE BY ENDORSEMENT BASED ON STATUS AS**
4 **MILITARY SPOUSE**

5 (a) An applicant for a dental license by endorsement based on the applicant's status as a military spouse shall submit
6 to the Board:

- 7 (1) a completed, signed and notarized application form provided by the Board
8 at www.ncdentalboard.org;
- 9 (2) the non-refundable application fee required by Rule 16M .0101(a)(14) of this Chapter;
- 10 (3) written evidence demonstrating that the applicant is married to an active member of the U.S.
11 military and that such applicant:
- 12 (A) holds a current dental license from another jurisdiction whose standards for licensure are
13 substantially equivalent to or greater than those required for licensure as a dentist in
14 North Carolina as set forth in these Rules; and
- 15 (B) has engaged in the active practice of dentistry as defined by G.S. 90-29(b)(1) for at least
16 1,500 hours per year during at least two of the five years preceding the date of
17 application; and
- 18 (4) a statement disclosing and explaining the commission of an act set out in G.S. 90-41(a) or (b), any
19 disciplinary actions, investigations, malpractice claims, state or federal agency complaints,
20 judgments, settlements, or criminal charges.
- 21 (5) a statement disclosing and explaining periods, within the last 10 years, of any voluntary or
22 involuntary commitment to any hospital or treatment facility, observation, assessment, or
23 treatment for substance abuse, with verification demonstrating that the applicant has complied
24 with all provisions and terms of any county or state drug treatment program, or impaired dentists
25 or other impaired professionals program;
- 26 (6) a copy of a current CPR certification;
- 27 (7) a report from the National Practitioner Data Bank; and
- 28 (8) the applicant's passing score on the Dental National Board Part I and Part II written examination
29 administered by the Joint Commission on National Dental Examinations.

30 (b) All information required must be completed and received by the Board office as a complete package with the
31 initial application and application fee. Incomplete application packages shall be returned to the applicant.

32 (c) All applicants shall submit to the Board a signed release form, form and completed Fingerprint Record Card
33 and Card, obtained from the Board. other forms required to perform a criminal history check. The form and cards
34 may be obtained from the Board.

35
36 *History Note:* Authority G.S. 90-30(b); 90-41; 90-36; 93B-15.1;
37 Eff. September 1, 2013.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1101

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, Box 2, the proper citation and name is "21 NCAC 16B .1101, Proof of Competency"

In the Rule text, include the new Section name and title at the top of the text. Then give the new citation and name of the Rule underneath, like so:

SECTION .1100 – REINSTATEMENT

21 NCAC 16B .1101 Proof of Competency

When making changes after publication to an adopted rule, follow Rule 26 NCAC 02C .0405(b)(1). You will remove all underlines and just strike or underline changes made after publication. Do not highlight any language.

In (a), are the contents of the form in another Rule or statute, or this rule?

On line 5, change "which" to "that"

Further in (a), how will the applicant know what is relative to him or her? I am guessing that it is evident on the form, but I wanted to check.

In (a), line 6, replace "will" to "shall"

In (b)(2), do you have more specific guidance you want to share on what should be in this letter?

In (b)(4), line 12, the citation is "Rule 16R .0104 of this Chapter"

So that I am clear – Paragraph (d) applies to everyone whose license has lapsed/been revoked or suspended for more than one year, correct? I ask because (e) and (f) speak to loss of license for 2 or 5 years, but I'm assuming that (d) applies to everyone whose license was lapsed for one year or more.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

In (f), line 24, I recommend replacing “must” with “shall” but I understand if the Board thinks it sounds better as written.

In (g), change “his” to “his or her”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1101

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - Lack of statutory authority
 - X Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

In Paragraph (e) of this Rule, the Board states that an applicant seeking reinstatement of a lapsed, revoked, suspended, or inactive license may be required "at the Board's discretion" to take refresher courses on topics specified by the Board.

Staff believes that the Board has the authority to require refresher courses to reinstate a license. However, staff believes that by simply stating that the requirement may be invoked at the discretion of the Board, without giving any guidance on when that may occur, the Rule is ambiguous as written.

Further, there is no guidance in the Rule on what the topics may be; staff believes that they will likely address areas to ensure competency and/or address the issues that led to the suspension or revocation. However, this is not stated in Rule.

Further, staff is not aware of and the Board does not cite any authority to make these determinations outside of rulemaking.

1 21 NCAC 16B .1101 is proposed for adoption as published in 28 NCR 15:1718 with changes as follows:

2
3 **21 NCAC 16B. 1101 PROOF OF COMPETENCY**

4 (a) All applications for reinstatement shall be submitted on forms furnished by the Board at www.ncdentalboard.org
5 and no application shall be deemed complete which does not set forth all the information required relative to the
6 applicant. Incomplete applications will be returned to the applicant.

7 (b) The application for reinstatement shall be accompanied by:

8 (1) the non-refundable reinstatement fee;

9 (2) two letters of character reference from non-family members;

10 (3) a current report from the National Practitioner Databank;

11 (4) proof of completion of continuing education courses in clinical patient care from Board-approved
12 sponsors, as defined in Rule 16R .0104 of this Subchapter, in amounts equal to the hours required for
13 renewal of a dental license; and

14 (5) a copy of current CPR card.

15 (c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from
16 the board of each state in which they are licensed.

17 (d) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one
18 year shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s)
19 required to perform a criminal history check. The form and card are available from the Board office.

20 (e) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for
21 two to five years may be required, at the Board's discretion, to take refresher courses on topics specified by the
22 Board.

23 (f) Applicants seeking reinstatement of a North Carolina dental license that has been revoked, suspended, inactive
24 or lapsed for more than five years must successfully pass the clinical examination given to first-time applicants
25 before applying for reinstatement.

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

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

29 Eff. July 1, 2014.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0101

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, Box 2, the proper name is "Licensure"

I know on line 4 that I suggested the use of "must" last year; however, you may want to replace it with "shall."

In (c), remove the extra space between the "c" and the end of parenthesis on line 9.

Also on line 9, replace "must" with "shall"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16C.0101 is proposed for amendment as published in 28 NCR 16:1869 as follows:

2

3 **21 NCAC 16C .0101 LICENSURE**

4 (a) All dental hygienists must be licensed by the North Carolina State Board of Dental Examiners before practicing
5 dental hygiene in this state.

6 (b) The examination requirement does not apply to persons who do not hold a North Carolina dental hygiene license
7 who are seeking volunteer licenses pursuant to G.S. 90-21.107 or license by endorsement pursuant to Rules 16G
8 .0107 or .0108 of this Chapter.

9 (c) All dental hygienists must maintain current CPR certification at all times.

10

11 *History Note: Authority G.S. 90-223; 90-224;*

12 *Eff. September 3, 1976;*

13 *Readopted Eff. September 26, 1977;*

14 *Amended Eff. July 1, 2014; September 1, 2013; June 1, 2006; May 1, 1989; January 1, 1983.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0202

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

As I understand the Rule, you are allowing individuals who have not graduated from the dental hygiene school to apply. However, G.S. 90-224 states:

(a) The applicant for licensure must be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or unit authorized to issue the same, and be a graduate of a program of dental hygiene in a school or college approved by the Board.

How is the Board reconciling the statute with the Rule? Is it your interpretation of the statute that the applicant who has not graduated is sort of a "pre applicant" for whom you are holding the application pending graduation?

On line 6, replace "will" with "shall"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16C .0202 is proposed for amendment as published in 28 NCR 16:1869 as follows:

2

3 **21 NCAC 16C .0202 STUDENT MAY APPLY**

4 The Board shall accept dental hygienist applications from students currently enrolled in schools of dental
5 hygiene. ~~The Board shall deny such applications if the applicant fails to complete the required course of study.~~

6 Applications will automatically be denied if the applicant fails to complete the required course of study or fails a
7 Board approved licensure examination.

8

9 *History Note: Authority G.S. 90-223; 90-224;*

10 *Eff. September 3, 1976;*

11 *Readopted Eff. September 26, 1977;*

12 *Amended Eff. July 1, 2014; June 1, 2006; May 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0301

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 5, replace "which" with "that"

On line 6, replace "will" with "shall"

Also on line 6, state "his or her address"

On line 7, are you no longer requiring proof of the high school equivalency if the applicant did not graduate from high school? G.S. 90-224(a) states the applicant may have graduated from high school or have a high school equivalency certificate issued by a governmental agency or unit. The way the rule is written, a holder of a GED would not need to submit proof of it. Also, it could appear that by removing language referring to the equivalency, the Rule is written to prevent those individuals from applying, and I am sure that is not the Board's intent.

On line 9, replace "must" with "shall"

On line 14, replace "must" with "shall"

In (f), line 22, remove the commas after "periods" and "years"

Is the authority for Paragraph (f) G.S. 90-229(a)(4), which states:

§ 90-229. Disciplinary measures.

(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) **Refuse to issue a license to practice dental hygiene;** (ii) Refuse to issue a certificate of renewal to practice dental hygiene; (iii) Revoke or suspend a license to practice dental hygiene; [and] (iv) Invoke such other disciplinary measures, censure or probative terms against a licensee as it deems proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

(4) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs her ability to practice dental hygiene;

If so, then it should be in the History Note. If not, what is the authority for this Paragraph?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16C .0301 is proposed for amendment as published in 28 NCR 16:1869 as follows:

2
3 **21 NCAC 16C .0301 APPLICATION FOR LICENSURE**

4 (a) All applications for licensure shall be made on the forms furnished by the Board at www.ncdentalboard.org and
5 no application shall be deemed complete which does not set forth all the information required relative to the
6 applicant. Incomplete applications will be returned to the applicant. Any applicant who changes his address shall
7 notify the Board office within 10 business days. Applicants shall ensure that a final transcript from his or her high
8 school is sent to the Board office in a sealed envelope. ~~proof of graduation from high school or its equivalent is sent~~
9 ~~to the Board office.~~ Applicants must also ensure that an official final transcript ~~proof of graduation~~ from a dental
10 hygiene program as set forth in G.S. 90-224 is sent in a sealed envelope to the Board office.

11 (b) The nonrefundable application fee shall accompany the application.

12 (c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the
13 board of each state in which they are licensed. A photograph of the applicant, taken within six months prior to the
14 date of the application, must be affixed to the application.

15 (d) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card and other
16 form(s) required to perform a criminal history check at the time of the application. The form and card are available
17 from the Board office.

18 (e) All applicants shall arrange for and ensure the submission to the Board office the examination scores required by
19 Rule .0303 of this Subchapter. The examination requirement does not apply to individuals who do not hold a North
20 Carolina dental hygiene license who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by
21 endorsement pursuant to Rules 16G .0107 or 16G .0108 of this Chapter.

22 (f) All applicants must include a statement disclosing and explaining periods, within the last 10 years, of any
23 voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for
24 substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of
25 any drug treatment program, or impaired dental hygienists or other impaired professionals program.

26 (g) All applicants for dental hygiene licensure shall achieve a passing score on the Dental Hygiene National Board
27 examination administered by the Joint Commission on National Dental Examinations.

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

30 *Eff. September 3, 1976;*

31 *Readopted Eff. September 26, 1977;*

32 *Amended Eff. July 1, 2014; September 1, 2013; June 1, 2006; May 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0303

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 5, you do not need the "16C" at the end of the line. The reference to "Rule .0311 of this Subchapter" is sufficient.

In (b) on line 8, are you saying "according to this Rule" as it relates to approval of the testing agencies or as it applies to the portions of the exam?

In (c), line 9, replace "must" with "shall" And I take it that if the Board cannot participate, it will not approve the agency to administer the test?

Insert an "and" at the end of (d)(3), line 16.

In (d)(4)(A) and (B) on lines 18 and 19, you replaced "raters" with "graders" in Rule 16B .0303. Do you wish to do so here?

In (d)(4)(F) on line 25, you added a semicolon after "examination" without showing the change to the original language. Please do so.

In (d)(4)(G), line 27, replace "which" with "that"

What are you saying in (e)? Someone has five years from taking an exam to submit those grades to the Board? If he or she does not submit within five years, then the applicant must take another exam?

In (f) on Page 2, line 3, replace "which" with "that"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

21 NCAC 16C .0303 is proposed for amendment as published in 28 NCR 16:1869 with changes 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 ~~16C .0405~~. 16C .0311 of this Subchapter.

(b) All applicants for dental hygiene licensure shall achieve passing scores on written and clinical examinations administered by ~~the board or~~ Board approved testing agencies according to this Rule.

(c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

(d) The clinical examination shall:

- (1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;
- (2) include procedures performed on human subjects as part of the assessment of clinical competency;
- (3) include probing, supra and subgingival scaling and soft tissue management;
- (4) provide the following:
 - (A) anonymity between applicants and examination raters;
 - (B) standardization and calibration of raters;
 - (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 or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score ~~set by the Board~~ for each subject area tested;
 - (F) an annual review of the examination; ~~and its technical manual by the Board and a psychometrician selected by the Board;~~
 - (G) a task analysis performed once every ~~seven~~ four years which surveys dentists ~~on a nationwide survey~~ to determine the content domain to be scored and how the sections of the examination are scored;
 - (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
 - ~~(I) a system of applicant assessment which utilizes raters of applicant performance who are not full time employees of any dental academic institution.~~
 - (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.

~~(e)~~ (e) The Board shall accept scores upon approved examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure that the applicant's scores are submitted to the Board

1 office. The applicant shall comply with all requirements of such testing agency in applying for and taking the
2 examination.

3 (f) (e) The Board shall specify the ~~times, places and~~ agencies which will conduct Board approved
4 licensure examinations. ~~examinations in the state~~.

5

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

7 *Eff. September 3, 1976;*

8 *Readopted Eff. September 26, 1977;*

9 *Amended Eff. July 1, 2014; June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988.*

10

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0311

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, delete the "has" both places. Note the same change for (b), line 8 and (c), line 13.

On line 6, do you mean "shall" instead of "will"? I think you do.

On line 5, replace "must" with "shall" Note the same change for lines 10 and 15.

I am a bit confused by the language on lines 11 and 12. I thought the exam per Rule .0303 only covers written and clinical portions. Are you relying upon G.S. 90-224.1 that requires other exams in Jurisprudence and Sterilization and Infection Control? If so, doesn't that apply only to applicants for licensure by credentials?

On line 15, I think it is missing some language. Do you mean, "before being admitted"? or "before admission"?

In the History Note, please insert a semicolon between the citations.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16C .0311 is proposed for adoption as published in 28 NCR 16:1869 as follows:

2
3 **21 NCAC 16C .0311 REEXAMINATION**

4 (a) Any applicant who has passed the written examination but has failed the clinical portion of any Board approved
5 examination must also re-take the written examination unless the applicant successfully passes the clinical
6 examination within one year of passing the written examination. The Board will not accept scores from the written
7 examination that are more than one year old.

8 (b) Any applicant who has failed the written examination may retake the written portion of the examination two
9 additional times during a one year period and need not retake the clinical portion of the examination. The applicant
10 must wait at least 72 hours before attempting to retake the written examination. If the applicant does not pass the
11 written portion of the examination upon the second reexamination, the applicant must retake the written and clinical
12 portions of the examination upon subsequent reexamination.

13 (c) Any applicant who has failed the written or clinical portions of the examination three times shall successfully
14 complete an additional Board approved course of study in the area(s) of deficiency exhibited on the examination.
15 Such applicant must send evidence of the additional study, along with the application, before admitted for
16 reexamination.

17
18 *History Note: Authority G.S. 90-223, 90-224;*

19 *Eff. July 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0401 - .0405

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Since you are repealing consecutive rules that have the same effective and repealed date, you need to combine the repeals on one form and one page.

On the Form, make sure you state in Box 2 the citation is 21 NCAC 16C.0401 - .0405.

Combine the rule names and citations onto one page, thusly:

SECTION .0400 – LICENSURE BY EXAMINATION CONDUCTED BY THE BOARD

- | | |
|--------------------------|---|
| 21 NCAC 16C .0401 | APPLICATION FOR EXAMINATION CONDUCTED BY THE BOARD |
| 21 NCAC 16C .0402 | TIME FOR FILING |
| 21 NCAC 16C .0403 | EXAMINATION CONDUCTED BY THE BOARD |
| 21 NCAC 16C .0404 | PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION |
| 21 NCAC 16C .0405 | BOARD CONDUCTED REEXAMINATION |

*History Note: Authority G.S. 90-223; 90-224; 90-224.1;
Eff. June 1, 2006;
Amended Eff. July 1, 2010; February 1, 2008;
Repealed Eff.*

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16C .0401 is proposed for repeal as published in 28 NCR 16:1869 as follows:

2

3 ~~21 NCAC 16C .0401~~ — **APPLICATION FOR EXAMINATION CONDUCTED BY THE BOARD**

4 ~~(a) All applications for licensure examination conducted by the Board shall be made on the forms furnished by the~~
5 ~~Board, and no application shall be deemed complete which does not set forth all the information required by these~~
6 ~~Rules relative to the applicant. Any candidate who changes his address shall notify the Board office.~~

7 ~~(b) The fee for such examination or re-examination must accompany the application. Such fee is non-refundable.~~

8 ~~(c) Two identical photographs of the applicant, taken within six months prior to the date of the application, not over~~
9 ~~two inches in height, must be submitted. One photograph must be affixed to the application and the second~~
10 ~~photograph must be paper-clipped to the application to be used as part of the identification badge.~~

11

12 *History Note: Authority G.S. 90-223; 90-224.1;*

13 *Eff. June 1, 2006.*

14 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16C .0402 is proposed for repeal as published in 28 NCR 16:1869 as follows:

2

3 ~~21 NCAC 16C .0402~~ — ~~TIME FOR FILING~~

4 ~~The completed application, fee, photographs, and sealed proof of graduation from the school as required by G.S. 90-~~
5 ~~224(a) must be received in the Board's office at least 90 days prior to the date of the examination conducted by the~~
6 ~~Board. Sealed proof of graduation from dental hygiene school for those still in dental hygiene school at the time of~~
7 ~~the application must be sent in upon graduation. All data received by the Board concerning the applicant shall be~~
8 ~~part of the application and shall be retained as part of the record.~~

9

10 *History Note:* Authority G.S. 90-223; 90-224;

11 *Eff. June 1, 2006;*

12 *Amended Eff. February 1, 2008.*

13 *Repealed Eff. July 1, 2014.*

14

1 21 NCAC 16C .0403 is proposed for repeal as published in 28 NCR 16:1869 as follows:

2

3 ~~21 NCAC 16C .0403~~ — **EXAMINATION CONDUCTED BY THE BOARD**

4 ~~(a) Each candidate shall be given a numbered badge. This badge shall contain the candidate's photograph and shall~~
5 ~~be presented to the candidate prior to the examination. The number on the badge shall be the only identification~~
6 ~~allowed on any paper or manuscript during this examination. The badge must be returned to the Board at the~~
7 ~~completion of the examination.~~

8 ~~(b) The Board may dismiss any candidate who is using or appears to be using any assistance not provided as an~~
9 ~~accommodation. If such violation is discovered by the Board after a license has been issued to the violator, the~~
10 ~~license shall be revoked.~~

11

12 *History Note: Authority G.S. 90-223; 90-224;*

13 *Eff. June 1, 2006.*

14 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16C .0404 is proposed for repeal as published in 28 NCR 16:1869 as follows:

2

3 ~~21 NCAC 16C .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL~~
4 ~~EXAMINATION~~

5 ~~(a) Each candidate must furnish his own patients and instruments for the Board conducted clinical examination.~~

6 ~~(b) Supplies necessary for all clinical work are to be provided by the candidate.~~

7

8 *History Note: Authority G.S. 90-223; 90-224;*

9 *Eff. June 1, 2006.*

10 *Repealed Eff. July 1, 2014.*

1 21 NCAC 16C .0405 is proposed for repeal as published in 28 NCR 16:1869 as follows:

2

3 ~~21 NCAC 16C .0405 — BOARD CONDUCTED REEXAMINATION~~

4 ~~(a) A complete application, except for official proof of graduation as required by G.S. 90-224(a) and National~~
5 ~~Board score, is required in case of reexamination.~~

6 ~~(b) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the~~
7 ~~examination conducted by the Board must also re take the written examination unless the applicant successfully~~
8 ~~passes the clinical examination within one year of passing the written examination.~~

9 ~~(c) Any applicant who has passed the clinical portion of the examination conducted by the Board but has failed the~~
10 ~~written portion of the examination may retake the written portion of the examination two additional times during a~~
11 ~~one year period and need not retake the clinical portion of the examination. If the applicant does not pass the written~~
12 ~~portion of the examination upon the second reexamination, the applicant must retake both the written and clinical~~
13 ~~portions of the examination upon subsequent reexamination.~~

14 ~~(d) Any applicant who has failed the written or clinical portions of the examination three times shall successfully~~
15 ~~complete an additional Board approved course of study in the area(s) of deficiency exhibited on the examination.~~
16 ~~Such applicant must send evidence of the additional study, along with the application, before admitted for~~
17 ~~reexamination.~~

18

19 *History Note: Authority G.S. 90-223; 90-224;*

20 *Eff. June 1, 2006;*

21 *Amended Eff. July 1, 2010.*

22 *Repealed Eff. July 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0501

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule Form, the proper name is "Dental Hygiene Licensure"

In Subparagraph (a)(1), what is in the application form? Are you relying upon the guidance of statute or are there other Rules that govern it?

In Subparagraph (a)(5), line 14, delete the commas after "periods" and "years"

Also in Subparagraph (a)(5), I take it you are using the new requirements to enforce G.S. 90-229(a)(4), which states:

§ 90-229. Disciplinary measures.

(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dental hygiene; (ii) Refuse to issue a certificate of renewal to practice dental hygiene; (iii) Revoke or suspend a license to practice dental hygiene; [and] (iv) Invoke such other disciplinary measures, censure or probative terms against a licensee as it deems proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

(4) Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs her ability to practice dental hygiene;

If so, then it should be in the History Note. If not, what is the authority for this Paragraph?

In Paragraph (b), line 22, delete the comma after "office"

In Subparagraph (b)(1), line 24, delete "has"

In Subparagraph (b)(3), line 30, I'd begin "a certificate..."

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

On line 31, delete or define "complete"

End Subparagraph (b)(4) on line 34 with a semicolon. And I take it that now the reporting is mandatory, such that the Board wants to see what was reported?

In (b)(5), line 37, replace "must" with "shall"

In (b)(7), Page 2, line 6, I assume that "substantially equivalent" will be determined using Rule 16C .0303 as the lodestar. If that is correct, do you want to reference it here?

In Paragraph (c), line 8, replace "must" with "shall"

In Paragraph (d), can the individuals get the forms from the Board office?

In Paragraph (e), line 13, replace "must" with "shall"

Also on line 13, I take it your regulated public knows what "successfully complete" means? Or are you using that to mirror the statutory language in 90-224.1(d)?

I take it that in (e), if the Board will determine if the clinical examination is necessary?

On line 14, I thought the Board no longer administered these exams? Or is this a special case scenario where the Board will do so?

To make sure I understand - in (e), if the individual does not pass within one year, they can never apply again for licensure by credentials?

In (f), the fee is due each time of reapplication? Is that for the individual who takes the exam more than once? If so, I think that needs to be clearer in the Rule.

In (g), "ab initio" needs to be italicized.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16C .0501 is proposed for amendment as published in 28 NCR 16:1869 as follows:

2
3 **21 NCAC 16C .0501 DENTAL HYGIENE LICENSURE BY CREDENTIALS**

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

- 5 (1) a completed, notarized application form provided by the Board;
- 6 (2) the nonrefundable licensure by credentials fee;
- 7 (3) an affidavit from the applicant stating for the two years immediately preceding the application:
- 8 (A) the dates that and locations where the applicant has practiced dental hygiene;
- 9 (B) that the applicant has provided at least 2000 hours of clinical care directly to patients; and
- 10 (C) that the applicant has continuously held an active, unrestricted dental hygiene license
- 11 issued by another U.S. state or any U.S. territory.
- 12 (4) a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims,
- 13 state or federal agency complaints, judgments, settlements, or criminal charges;
- 14 (5) ~~if applicable~~, a statement disclosing and explaining periods, within the last 10 years, of any
- 15 voluntary or involuntary commitment to a hospital or treatment facility, observation, assessment,
- 16 or treatment for substance abuse, with verification demonstrating that the applicant has complied
- 17 with all provisions and terms of any county or state drug treatment program, or impaired dental
- 18 hygiene or other impaired professionals program; and
- 19 (6) a copy of a current CPR certificate. ~~an unexpired course completion certification card in~~
- 20 ~~cardiopulmonary resuscitation.~~

21 (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental hygiene license by

22 credentials shall arrange for and ensure the submission to the Board office, the following documents as a package,

23 with each document in an unopened envelope sealed by the entity involved:

- 24 (1) official transcripts certifying that the applicant has graduated from a dental hygiene program
- 25 accredited by the Commission on Dental Accreditation of the American Dental Association;
- 26 (2) if the applicant is or has ever been employed as a ~~dentist or~~ dental hygienist by or under contract
- 27 with a federal agency, a ~~certification~~ letter certifying ~~of~~ the applicant's current status and
- 28 disciplinary history from each federal agency where the applicant is or has been employed or
- 29 under contract;
- 30 (3) certificate of the applicant's licensure status from the regulatory authority or other occupational or
- 31 professional regulatory authority and complete information regarding all disciplinary actions taken
- 32 or investigations pending, from all licensing jurisdictions where the applicant holds or has ever
- 33 held a dental hygiene license or other occupational or professional license;
- 34 (4) a report from the National Practitioner Databank, ~~if reporting is required or allowed by federal~~
- 35 ~~law~~;
- 36 (5) a report of any pending or final malpractice actions against the applicant verified by the
- 37 malpractice insurance carrier covering the applicant. The applicant must submit a letter of

1 coverage history from all current and all previous malpractice insurance carriers covering the
2 applicant;

3 (6) the applicant's passing score on the National Board Dental Hygiene Examination administered by
4 the Joint Commission on National Dental Examinations; and

5 (7) the applicant's passing score on the licensure examination conducted by a regional testing agency
6 or independent state licensure examination that is substantially equivalent to the clinical licensure
7 examination required in North Carolina.

8 (c) All information required must be completed and received by the Board office as a complete package with the
9 initial application and application fee. ~~Incomplete applications If all of the information is not received as a complete~~
10 ~~package, the application shall be returned to the applicant.~~

11 (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other
12 form(s) required to perform a criminal history check at the time of the application.

13 (e) An applicant for dental hygiene licensure by credentials must successfully complete written examinations and, if
14 deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If
15 the applicant fails ~~any of the~~ written examinations, the applicant may retake the examination ~~failed~~ two additional
16 times during a one year ~~period.~~ period, as required by Rule 16C .0311 of this Subchapter. Applicants who fail the
17 clinical examination or who do not pass the written examination after three attempts within one year may not
18 reapply for licensure by credentials.

19 (f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be
20 required.

21 (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

22
23 *History Note: Authority G.S. 90-223; 90-224.1;*
24 *Temporary Adoption Eff. January 1, 2003;*
25 *Eff. January 1, 2004;*
26 *Recodified from Rule .0401 Eff. June 1, 2006;*
27 *Amended Eff. July 1, 2014; February 1, 2010.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0601

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please note, you are creating a new Section by doing this rulemaking. You will need to submit a Section name to our publications staff for entry into the Administrative Code after approval.

This is simply a query, but why doesn't this Rule have the same structure as 16B .1101? They appear to have the same content, but they don't look the same. Why is that?

In (a), are the contents of the form in another Rule or statute, or this Rule?

Further in (a), how will the applicant know what is relative to him or her? I am guessing that it is evident on the form, but I wanted to check.

On line 5, change "which" to "that"

In (a), line 6, replace "will" to "shall" and "his" to "his or her"

In (c), line 10, I recommend replacing "must" with "shall" but I understand if the Board thinks it sounds better as written.

So that I am clear – Paragraph (f) applies to everyone whose license has lapsed/been revoked or suspended for more than one year, correct? I ask because (c) and (d) speak to loss of license for 2 or 5 years, but I'm assuming that (f) applies to everyone whose license was lapsed for one year or more.

You need to begin Paragraph (g) with a verb or make it clear that documentation must be provided to the Board. Also, do you want to cite your continuing education rule here?

In (h), do you have more specific guidance you want to share on what should be in this letter?

Since suspension or revocation of the license occurs under G.S. 90-229, I recommend adding that citation to the History Note.

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: June 25, 2014

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0601

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - Lack of statutory authority
 - X Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

In Paragraph (d) of this Rule, the Board states that an applicant seeking reinstatement of a lapsed, revoked, suspended, or inactive license may be required "at the Board's discretion" to take refresher courses on topics specified by the Board.

Staff believes that the Board has the authority to require refresher courses to reinstate a license. However, staff believes that by simply stating that the requirement may be invoked at the discretion of the Board, without giving any guidance on when that may occur, the Rule is ambiguous as written.

Further, there is no guidance in the Rule on what the topics may be; staff believes that they will likely address areas to ensure competency and/or address the issues that led to the suspension or revocation. However, this is not stated in Rule.

Further, staff is not aware of and the Board does not cite any authority to make these determinations outside of rulemaking.

Amanda J. Reeder
Commission Counsel

1 21 NCAC 16C .0601 is proposed for adoption as published in 28 NCR 16:1869 as follows:

2
3 21 NCAC 16C. 0601 PROOF OF COMPETENCY

4 (a) All applications for reinstatement shall be made on the forms furnished by the Board at www.ncdentalboard.org
5 and no application shall be deemed complete which does not set forth all the information required relative to the
6 applicant. Incomplete applications will be returned to the applicant. Any applicant who changes his address shall
7 notify the Board office within 10 business days.

8 (b) The reinstatement fee shall accompany the application.

9 (c) All applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed
10 for more than five years must successfully pass the clinical examination given to first-time applicants before seeking
11 reinstatement.

12 (d) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for
13 two to five years may, at the Board's discretion, be required to take refresher courses as specified by the Board.

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

16 (f) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year
17 shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required
18 to perform a criminal history check at the time of the application for reinstatement. The form and card are available
19 from the Board office.

20 (g) Documentation of continuing education in clinical patient care, by Board-approved sponsors, equal to the
21 number of hours currently required for the renewal of a dental hygiene license and current CPR certification.

22 (h) Two letters of character reference from non-family members.

23 (i) A report from the National Practitioner Databank.

24
25 History Note: Authority G.S. 90-223; 90-224;

26 Eff. July 1, 2014.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0303

DEADLINE FOR RECEIPT: Thursday, July 10, 2014

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4 and line 7, replace "he/she" with "he or she"

On line 10, I would replace "will" with "shall" in both places

On line 11, replace "will" with "shall"

As I understand the statement on lines 10 through 12, you are saying that the applicant who fails to complete the requirements simply cannot have a temporary permit at all. Is that correct?

I recommend breaking Paragraph (a) into at least two Paragraphs, the first being lines 4 through 12 and the second being lines 12 through 17. However, if doing so will affect citations in other rules, I certainly understand if the Board does not want to do so at this time.

I take the evaluation is for temporary and permanent permits? Or just permanent?

In (b), are you saying there will not necessarily be an inspection for every renewal? Or are you saying the Board can do so for renewals and if there is cause?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2014

1 21 NCAC 16Q .0303 is proposed for amendment as published in 28 NCR 7: 626 as follows:

2
3 **21 NCAC 16Q .0303 TEMPORARY APPROVAL PRIOR TO SITE INSPECTION**

4 (a) If a dentist meets the requirements of Paragraphs (a) – (e) of Rule .0301 of this Subchapter, he/she shall be
5 granted temporary approval to administer moderate conscious ~~sedation~~ ~~sedation~~, or moderate pediatric conscious
6 sedation until a permit can be issued. If a dentist meets the requirements of Paragraph (j) of Rule .0301 of this
7 Subchapter, he/she shall be granted temporary approval to administer moderate conscious sedation limited to oral
8 routes and nitrous oxide inhalation. Temporary approval may be granted based solely on credentials until all
9 processing and investigation has been completed. ~~Temporary approval may not exceed three months. The~~
10 temporary approval will expire after 90 days. Extensions will not be granted. An applicant who fails to complete
11 the requirements within the time allowed by this Rule must re-apply for a permit and will not be eligible for
12 temporary approval. An on-site evaluation of the facilities, equipment, procedures, and personnel shall be required
13 prior to issuance of a permanent permit. The evaluation shall be conducted in accordance with Rules .0204 - .0205
14 of this Subchapter, except that evaluations of dentists applying for moderate conscious sedation permits may be
15 conducted by dentists who have been issued moderate conscious sedation permits by the Board and who have been
16 approved by the Board, as set out in these Rules. A two hundred seventy five dollar (\$275.00) inspection fee shall
17 be collected for each site inspected pursuant to this Rule.

18 (b) An inspection may be made upon renewal of the permit or for cause.

19 (c) Temporary approval shall not be granted to a provisional licensee or applicants who are the subject of a pending
20 Board disciplinary investigation or whose licenses have been revoked, suspended or are subject to an order of stayed
21 suspension or probation.

22
23 *History Note: Authority G.S. 90-28; 90-30.1;*

24 *Eff. February 1, 1990;*

25 *Amended Eff. August 1, 2002; January 1, 1994;*

26 *Temporary Amendment Eff. December 11, 2002;*

27 *Amended Eff. July 1, 2014; February 1, 2009; July 3, 2008; August 1, 2004.*