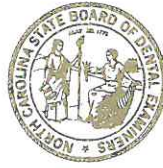


NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

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June 1, 2015


Ms. Amber Cronk May, Esq.
N.C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-6714

Dear Amber:

You will please find enclosed the Submission for Permanent Rules and accompanying documents, with technical changes for Dental Board Rules 21 NCAC 16R-Z. As a reminder, the Dental Board has decided not to pursue amendments to 21 NCAC 16S .0203, 16U .0201, 16U .0203 and 16U .0204. We are also withdrawing 16R .0109 and 16R .0206 as unnecessary.

Thanks for all of your assistance.

Very truly yours,


Carolin Bakewell
Board Counsel

Enclosures

FILED
2015 JUN -1 PM 12:13
OFFICE OF
ADMIN HEARINGS

1 SECTION .0100 -- ~~CONTINUING EDUCATION~~ **RENEWAL OF LICENSE**

2
3 21 NCAC 16R .0101 is amended as published in 29:04 NCR 409 with changes as follows:

4
5 **21 NCAC 16R .0101 APPLICATIONS**

6 (a) A renewal application ~~must shall~~ be completed ~~[in full]~~ and received in the Board's office ~~by before~~ **midnight** the
7 ~~close of business~~ on January 31 of each ~~year, for renewal without a fee for late filing.~~ All applications submitted to
8 ~~the Board must be completed in full.~~ **Renewal applications received after that date will require a late fee. The**
9 **renewal form may be obtained on the board's website: www.ncdentalboard.org.**

10 (b) Eligible licensees as defined by Rule .0206 of this Subchapter ~~shall be~~ **[are]** granted an extension period ~~[as set~~
11 ~~out in Rule .0206 of this Subchapter]~~ **in accordance with 26 U.S.C. 7508** ~~in which to pay [license renewal fees]~~
12 **license, general anesthesia, and sedation permit renewal fees, obtain CPR certification, renew professional**
13 **association and corporation registrations and comply with [all other requirements imposed by the Dental Board] the**
14 **Dental Board's continuing education rules. [as conditions for maintaining licensure and current sedation permits.]**

15
16 *History Note:* Authority G.S. 90-28; 90-31; 90-39; 93B-15;
17 Eff. April 1, 2003;
18 Amended Eff. June 1, 2015; February 1, 2008.

21 NCAC 16R .0102 is amended as published in 29:04 NCR 409 as follows:

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

(a) If the application for a renewal certificate, accompanied by the fee ~~required,~~ required by Rule 16M .0101, is not received in to the Board's office ~~by the close of business~~ before midnight on January 31 of each year, an additional fee of fifty dollars (\$50.00) shall be charged for the renewal certificate.

(b) A fee of twenty-five dollars (\$25.00) shall be charged for each duplicate of any license or certificate issued by the Board.

*History Note: Authority G.S. 90-31; 90-39;
Eff. April 1, 2003;
Amended Eff. June 1, 2015; February 1, 2008.*

21 NCAC 16R .0103 - .0107 are repealed as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0103	CONTINUING EDUCATION REQUIRED
21 NCAC 16R .0104	APPROVED COURSES AND SPONSORS
21 NCAC 16R .0105	REPORTING OF CONTINUING EDUCATION
21 NCAC 16R .0106	VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION
21 NCAC 16R .0107	PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION

History Note: Authority G.S. 90-31.1;

Eff. May 1, 1994;

Amended Eff. Amended Eff. November 1, 2008; September 1, 2008; February 1, 2008; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 1998.

Repealed Eff. June 1, 2015.

21 NCAC 16R .0108 is adopted as published in 29:04 NCR 409 with changes as follows:

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

If an application for a renewal certificate, accompanied by the renewal fee and any applicable late filing ~~fees,~~ fees required by Rule 16M .0101 ~~are~~ is not received in the Board's office before midnight on March 31 of each year, the license shall become ~~becomes~~ void and the applicant must apply for ~~reinstatement.~~ reinstatement. A copy of the reinstatement application form and the location of the Board's office can be found at www.ncdentalboard.org.

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

Eff. June 1, 2015.

21 NCAC 16R .0110 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0110 RENEWAL CERTIFICATE MUST BE DISPLAYED

The ~~original license and~~ current certificate of renewal of license shall be posted where it is visible to patients receiving treatment ~~at all times be conspicuously displayed~~ in the office where the dentist is employed, and ~~whenever requested,~~ shall be exhibited or produced to the North Carolina State Board of Dental Examiners or its ~~authorized agents,~~ investigators during every visit to the office. Photocopies may not be substituted for the ~~original license,~~ current certificate of renewal or duplicates issued by the Board.

History Note: Authority G.S. 90-33;

Eff. June 1, 2015.

1 SECTION .0200 – CONTINUING EDUCATION

2
3 21 NCAC 16R .0201 is adopted as published in 29:04 NCR 409 with changes as follows:

4
5 **21 NCAC 16R .0201 CONTINUING EDUCATION REQUIRED**

6 Except as permitted in Rule 16R .0204 of this Section as a condition of license renewal, every dentist shall complete
7 at least 15 clock hours of continuing education each calendar year. Any or all of the hours may be acquired through
8 self-study courses, provided that the self-study courses ~~must~~ shall be related to clinical patient care and offered by a
9 Board approved ~~sponsor~~ sponsor listed in Rule 16R .0202 of this Section. The dentist ~~must~~ shall pass a test
10 following every self-study course and obtain a certificate of completion. Courses taken to maintain current CPR
11 certification shall not count toward the mandatory continuing education hours.

12
13 *History Note: Authority G.S. 90-31.1;*

14 *Eff. June 1, 2015.*

21 NCAC 16R .0202 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0202 APPROVED COURSES AND SPONSORS

(a) Courses allowed to satisfy the continuing education requirement ~~must~~ shall be related to clinical patient care. Hours devoted to financial issues or practice development topics shall not be counted toward the continuing education requirement. Hours spent reviewing dental journals, publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self-study courses as described in Rule .0201 of this ~~Section~~ Subchapter offered by Board approved sponsors.

(b) Approved continuing education course sponsors include:

- (1) those recognized by the Continuing Education Recognition Program of the American Dental Association;
- (2) the Academy of General Dentistry;
- (3) North Carolina Area Health Education Centers;
- (4) educational institutions with dental, dental hygiene or dental assisting schools or departments;
- (5) national, state or local societies or associations; and
- (6) local, state or federal governmental entities.

History Note: Authority G.S. 90-31.1;

Eff. June 1, 2015.

21 NCAC 16R .0203 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0203 REPORTING CONTINUING EDUCATION

(a) All licensed dentists shall report the number of continuing education hours completed annually on the license renewal application form submitted to the Board. The organization offering or sponsoring each course shall provide to each attendee a report containing the following information:

- (1) course title;
- (2) number of hours of instruction;
- (3) date of the course attended;
- (4) name(s) of the course instructor(s); and
- (5) name of the organization offering or sponsoring the course.

~~(b). (b) Evidence of service employment by or affiliation with an agency or institution as specified in Rule .0204~~
~~.0204(c) of this Section shall be in the form of verification of affiliation or employment documented~~ verified by a director or an official acting in a supervisory ~~capacity~~ position.

(c) All licensed dentists shall maintain the report referred to in Paragraph (a) of this Rule for at least two years following completion of the course and shall produce a copy of the report to the Board or its investigator ~~authorized agent upon demand~~ during every Board audit of the licensee's continuing education hours.

History Note: Authority G.S. 90-31.1;
Eff. June 1, 2015.

21 NCAC 16R .0204 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0204 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION

(a) Upon receipt of ~~satisfactory~~ written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in ~~this Rule~~ .0201 of this Section as follows:

(1) A dentist who practices not more than 250 clock hours in a calendar year shall be ~~exempted~~ exempt from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, shall maintain current CPR certification.

(2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be exempt from one half of the continuing education courses required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class II dentists, shall maintain current CPR certification.

(3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education and CPR certification requirements.

(4) A dentist who is ~~disabled~~ unable to practice dentistry because of a physical or mental illness may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with Paragraph (a) of this Rule when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test before allowing the licensee to resume practice if there is evidence that the licensee is unable to practice dentistry ~~competently~~ competently, such as a failing score on a dental licensing examination, a written report of a licensed physician, evaluation conducted by a substance abuse treatment facility, appointment of a guardian for the dentist or adjudication of incompetence by a court.

(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:

(1) service on a full-time basis on the faculty of an educational institution with ~~direct~~ involvement in education, training, or research in dental or dental auxiliary programs; or

(2) service on a full time basis with a federal, ~~state~~ state, or county government agency whose operation is ~~directly~~ related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule ~~.0105-.0203~~ .0105-.0203 of this Subchapter. Section.

(d) Dentists who work at least 20 hours per week in an institution or entity described in Subparagraph (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.

(e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, ~~city~~ city, or county operated ~~site~~. ~~site approved by the Dental Board~~. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.

(f) Eligible licensees as defined by Rule ,0206 of this ~~Subchapter~~ Section shall be ~~are~~ granted a waiver of their mandatory continuing education requirements.

*History Note: Authority G.S. 90-31.1; 90-38;
Eff. June 1, 2015.*

21 NCAC 16R .0205 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0205 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION

If an applicant for a renewal of license fails to provide proof of completion of reported continuing education hours for the current year as required by Rule 16R ~~Rules 16R .0201 and .0203~~ of this Section, the Board ~~shall~~ may refuse to issue a renewal certificate until the licensee completes the required hours of education for the current year and ~~meets all other qualifications for renewal.~~ complies with the requirements of Rules 16R .0101 and .0102 of this Section. If an applicant applies for credit for or exemption from continuing education hours and fails to provide the required documentation upon request, the Board shall refuse to issue a certificate of renewal until ~~such time as~~ the applicant meets the qualifications for exemption or credit. If an applicant fails to meet the qualifications for renewal, including completing the required hours of continuing education and delivering the required documentation to the Board's office before midnight on March 31 of each year, the license ~~becomes~~ shall become void and ~~must be reinstated.~~ the licensee must seek reinstatement.

*History Note: Authority G.S. 90-31.1;
 Eff. June 1, 2015.*

21 NCAC 16S .0101 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16S .0101 DEFINITIONS

The following definitions are applicable to impaired dentist programs established in accordance with G.S. 90-48.2:

- (1) "Board" ~~means~~ -- the North Carolina State Board of Dental Examiners;
- (2) "Impairment" ~~means~~ -- chemical dependency or mental illness;
- (3) "Board of Directors" ~~means~~ -- individuals comprising the oversight panel consisting of representatives from the North Carolina Dental Society, the Board, licensed dental hygienists, and the UNC School of Dentistry established to function as a supervisory body to the North Carolina Caring Dental Professionals;
- (4) "Director" ~~means~~ -- the person designated by the Board of Directors to organize and coordinate the activities of the North Carolina Caring Dental Professionals;
- (5) "North Carolina Caring Dental Professionals" ~~means~~ -- the program established through agreements between the Board and special impaired dentist peer review organizations formed by the North Carolina Dental Society made up of Dental Society members designated by the Society, the Board, a licensed dental hygienist upon recommendation of the dental hygienist member of the Board, and the UNC School of Dentistry to conduct peer review activities as provided in G.S. 90-48.2(a).
- (6) "North Carolina Caring Dental Professionals members" ~~means~~ -- the two hygienists appointed by the Dental Board and volunteer Dental Society members selected by the Board of Directors from peer review organizations to serve as parties to interventions, to direct impaired dentists into treatment, and as monitors of those individuals receiving treatment. Peer liaisons and volunteers participating in programs for impaired dental hygienists shall be dental hygienists.

History Note: Authority G.S. 90-48; 90-48.2; 90-48.3
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. June 1, 2015; April 1, 2001.

21 NCAC 16S .0202 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16S .0202 CONFIDENTIALITY

Information received by the Program regarding voluntary participants shall remain confidential and shall not be released to ~~[any party outside the membership of the Program,]~~ the Dental Board or members of the public, except as set out in Rule .0203(b) of this ~~[Subchapter,]~~ Section. Voluntary participants who meet the requirements of Rule ~~[.0303(b)]~~ .0203(b) of this Subchapter shall be reported to the Board along with evidence of the events leading to the report. ~~However, information~~ Information received about participants referred to the Program by the Board ~~received as a result of a Board referral~~ shall be freely exchanged with the Board or its investigators. authorized agents.

*History Note: Authority G.S. 90-48; 90-48.2;
 Eff. April 1, 1994.
 Amended Eff. June 1, 2015.*

21 NCAC 16T .0102 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16T .0102 TRANSFER OF RECORDS UPON REQUEST

A dentist shall, upon request by the patient of record, provide all information required by the Health Information Insurance Portability and Accountability Act (HIPAA) and Rule 16T .0102 of this Section, other applicable law, including original or diagnostic copies of radiographs and a legible copy summary of all the [complete] treatment record records to the patient or to a licensed dentist identified by the patient. The dentist may charge a fee not exceeding the actual cost of duplicating the records. A fee may be charged for duplication of radiographs and diagnostic materials. The ~~treatment summary and radiographs~~ records shall be provided within 30 days of the request and production shall not be contingent upon current, past or future dental treatment or payment of services.

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

Eff. October 1, 1996;

Amended Eff. June 1, 2015; April 1, 2014; November 1, 2008.

21 NCAC 16U .0101 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16U .0101 SECRETARY-TREASURER

The Board's Secretary-Treasurer or another Board member appointed by the Secretary-Treasurer ~~appointed by the Board's President~~ shall supervise and direct investigations of acts or practices that might violate the provisions of the Dental Practice Act, the Dental Hygiene Act or the Board's Rules. The Secretary-Treasurer or other Board member appointed by the Secretary-Treasurer ~~Board's President~~, in consultation with the Investigative Panel, shall determine whether cases involving licensees, interns or applicants for licenses or permits shall be set for hearing or settlement conference and recommend to the Board dispositions of cases ~~which~~ that are not set for hearing or settlement conference.

*History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231;
Eff. October 1, 1996.
Amended Eff. June 1, 2015.*

21 NCAC 16U .0102 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16U .0102 INVESTIGATIVE PANEL

The Secretary-Treasurer or another Board member ~~appointed by the President~~ appointed by the Secretary-Treasurer shall chair the Investigative Panel. The Board's Counsel, ~~Investigations Coordinator,~~ Director of Investigations, Investigators and such other staff members appointed by ~~as the Secretary-Treasurer~~ President may from time to time ~~appoint~~ shall serve on the Panel. The Investigative Panel shall conduct investigations and prepare and present the Board's case in all reinstatement cases, and disciplinary proceedings ~~contested case hearings~~ and in civil actions to enjoin the unlawful practice of dentistry.

History Note: *Authority G.S. 90-28; 90-40.1; 90-41; 90-41.1; 90-48; 90-223; 90-231; 150B-40;*

Eff. October 1, 1996.

Amended Eff. June 1, 2015.

21 NCAC 16U .0103 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16U .0103 REPORTS FROM THE CONTROLLED SUBSTANCES REPORTING SYSTEM

The Department of Health and Human Services (DHHS) may submit a report to the North Carolina State Board of Dental Examiners if it receives information that DHHS believes provides a basis to investigation investigate whether a dentist has issued prescriptions for controlled substances in a manner that may violate -laws governing the prescribing of controlled substances or the practice of dentistry.

*History Note: Authority G.S. 90-41; 90-113.74.
Eff. June 1, 2015.*

21 NCAC 16V .0101 is proposed for amendment as follows:

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

Unprofessional conduct by a dentist shall ~~include, but not be limited to, include~~ the following:

- (1) Having ~~professional discipline imposed, a license to practice dentistry revoked, suspended, or otherwise acted against,~~ including the denial of licensure, by the ~~dental~~ licensing authority of another state, territory, or country; (For purposes of this Section, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined.)
- (2) Intentionally presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;
- (3) Committing any act which would constitute sexual assault or battery ~~as defined by Chapter 14 of the North Carolina General Statutes~~ in connection with the provision of dental services;
- (4) Violating any ~~lawful~~ order of the Board previously entered in a disciplinary hearing, or failing to comply with a ~~lawfully issued~~ subpoena of the Board;
- (5) Conspiring with any person to commit an act, or committing an act which would tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) Failing to identify to a patient, patient's ~~guardian~~ ~~guardian~~, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) Prescribing, procuring, dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) Pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) Forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;
- (10) Failing to provide radiation safeguards required by ~~the Radiation Protection Section of the State Department of Environment, Health, and Natural Resources;~~ ~~applicable state and federal agencies;~~ ~~the State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug Administration and the Environmental Protection Agency;~~
- (11) Having professional connection with or lending one's name to the unlawful practice of dentistry;
- (12) Using the name of any deceased or retired and licensed dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist; ~~and~~

- (13) Failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program.
- (14) Failing to file a ~~timely,~~ truthful response to a notice of ~~complaint,~~ complaint ~~within the time allowed in the notice.~~
- (15) Failing to notify the Board of a change in current physical address within 10 business days.
- (16) Permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks.
- (17) Failing to produce diagnostic radiographs or other treatment records on ~~lawful~~ request of the Board or its ~~agents,~~ investigator.
- (18) Soliciting employment of potential patients by live telephone solicitation or permitting or directing another to do so.
- (19) Giving or paying anything of value in exchange for a promise to refer or referral of potential patients.
- (20) Failing to offer 30 days of emergency care upon dismissing a patient from a dental practice.
- (21) Withholding or refusing treatment to an existing patient conditioned upon payment of an outstanding balance.
- (22) Using protected patient health information, as defined by ~~HIPAA~~ 45 CFR 160.103, to solicit potential patients. ~~without the potential patients' prior consent.~~
- (23) Making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so.
- (24) Making material false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board.
- (25) Refusing to permit a Board agent or employee to conduct a sterilization inspection.
- ~~[(26) Failing to comply with a lawfully issued Board subpoena.]~~
- ~~[(27)]~~ (26) Acquiring any controlled substance from any source by fraud, deceit or misrepresentation.

History Note: Authority G.S. 90-28; 90-41; 90-48;
Eff. August 1, 1998;
Amended Eff. June 1, 2015; October 1, 2001; August 1, 2000.

21 NCAC 16V .0102 is proposed for amendment as follows:

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

Unprofessional conduct by a dental hygienist shall ~~include, but not be limited to,~~ include the following:

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

- 1 (15) Giving or paying anything of value in exchange for a promise to refer or referral of potential
2 patients.
- 3 (16) Using protected patient health information, as defined by [HIPAA,] 45 CFR 160.103, to solicit
4 potential patients. patients without the prior consent of the potential patients.
- 5 (17) Making misleading or untruthful statements for the purpose of procuring potential patients or
6 assisting another to do so.
- 7 (18) Making material false statements or omissions in any communication with the Board or its agents
8 regarding the subject of any disciplinary matter under investigation by the Board.
- 9 ~~[(19) Failing to comply with a lawfully issued Board subpoena.]~~

10
11
12 *History Note:* *Authority G.S. 90-223; 90-229;*
13 *Eff. August 1, 1998;*
14 *Amended Eff. June 1, 2015; October 1, 2001; August 1, 2000; September 1, 1998.*
15
16

21 NCAC 16Y .0101 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16Y .0101 ELIGIBILITY REQUIREMENTS

(a) Persons shall be eligible for an intern permit under the provisions of G.S. 90-29.4 if they are:

- (1) not licensed to practice dentistry in North Carolina, but are a graduate of and have a DMD or DDS degree from a dental school or program accredited by the Commission on Dental Accreditation of the American Dental Association; or
- (2) a graduate of a dental program other than a program accredited by the Commission on Dental Accreditation of the American Dental Association who has been accepted into a graduate, intern, fellowship, or residency program at a North Carolina Dental School or teaching hospital offering programs in dentistry.

(b) an intern permit shall not be granted to an individual who:

- (1) lacks ~~cannot demonstrate~~ good moral character;
- (2) has been disciplined by any dental board or other licensing body in another state or country.

*History Note: Authority G.S. 90-28; 90-29.4; 90-30;
Eff. August 1, 2002;
Amended Eff. June 1, 2015; August 1, 2009.*

21 NCAC 16Y .0102 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16Y .0102 APPLICATION

(a) Applicants for intern permit who are graduates of dental schools or programs as set out in Rule .0101(1) of this Subchapter shall must:

- (1) complete the Application for Intern Permit ~~as furnished by the Board;~~ available on the Board's website: www.ncdentalboard.org.
- (2) submit an official copy of dental school transcripts;
- (3) forward a letter from a prospective employer;
- (4) submit a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application;
- (5) ~~successfully complete pass~~ written examination(s) ~~administered~~ approved by the ~~Board;~~ Board, as set out on its website: www.ncdentalboard.org. and
- (6) pay the nonrefundable intern permit ~~fee~~ fee referred to in Rule 16M .0101(a)(5).

(b) Applicants for intern permit who are graduates of a dental program as set out in Rule .0101(2) of this Subchapter shall must:

- (1) submit written confirmation that the applicant has qualified for and is currently enrolled in a graduate, intern, fellowship, or residency program in the North Carolina Dental School or teaching hospital offering programs in dentistry;
- (2) submit written confirmation that an ad hoc committee (consisting of three associate or full professors, only one of whom represents the department in question) has evaluated the applicant's didactic and clinical performance with the point of observation being not less than three months from the applicant's start of the program, and has determined that the applicant is functioning at a professional standard consistent with a dental graduate from an ADA-accredited dental school;
- (3) successfully complete a simulated clinical ~~examination; offered by a Board-approved provider set out on its website: www.ncdentalboard.org.~~
- (4) submit written confirmation that the applicant has successfully completed a program of study at the training facility in:
 - (A) clinical pharmacology;
 - (B) prescription writing in compliance with Federal and State laws; and
 - (C) relevant laws and administrative procedures pertaining to the DEA;
- (5) submit a written statement of the total time required to complete the graduate, intern, fellowship, or residency program, and the date that the applicant is scheduled to complete said program;
- (6) submit a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application;
- (7) successfully complete written examination(s) administered by the Board; and
- (8) pay the non-refundable intern permit ~~fee~~ fee referred to in Rule 16M .0101(a)(5).

1 (c) In making application, the applicant shall authorize the Board to verify the information contained in the
2 application or documents submitted or to seek such further information pertinent to the applicant's qualifications or
3 character as the Board may deem necessary pursuant to G.S. 90-41.

4 (d) Intern permits shall expire on an annual basis and are subject to renewal by the Board upon application and
5 payment of the renewal fee.

6
7 *History Note: Authority G.S.90-28; 90-29.4;*
8 *Eff. August 1, 2002;*
9 *Temporary Amendment Eff. January 1, 2003;*
10 *Amended Eff. June 1, 2015; January 1, 2004.*
11

21 NCAC 16Y .0103 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16Y .0103 EMPLOYMENT

(a) The practice of dentistry under an intern permit is limited to the confines and registered patients of the following employment sites:

- (1) a nonprofit hospital, sanatorium, or a like institution;
- (2) a nonprofit health care facility serving low-income populations; or
- (3) a state or governmental facility or entity or any political subdivision of such.

Each facility or entity set out in Paragraph (a) of this Rule shall submit documentation to the Board evidencing that it meets the qualifications set out in G.S. 90-29.4(3) in order for the facility or site to be considered an approved employment site.

(b) A listing of ~~said~~ approved sites ~~may be obtained from the Board office.~~ is available on the Board's website: www.ncdentalboard.org.

(c) A request for change in practice location ~~shall~~ must be submitted in writing to the Board and is subject to the new practice location meeting the requirements of Paragraph (a) of this Rule.

(d) The holder of an intern permit shall not receive any compensation in excess of ~~a reasonable~~ an allowance for salaries or other compensation for personal services provided. ~~actually rendered or engage in any other transaction with the employer that results in a diversion of income from the employer.~~

History Note: Authority G.S. 90-28; 90-29.4;

Eff. August 1, 2002.

Amended Eff. June 1, 2015.

21 NCAC 16Z .0101 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16Z .0101 ELIGIBILITY TO PRACTICE HYGIENE OUTSIDE DIRECT SUPERVISION

(a) To be eligible to perform the clinical hygiene procedures set out in G.S. 90-221(a) without the direct supervision of a dentist, a dental hygienist ~~must:~~ shall:

- (1) maintain an active license to practice dental hygiene in this State;
- (2) have no prior disciplinary history in any State;
- (3) complete at least three years of experience in clinical dental hygiene or at least 2,000 hours of performing ~~primarily~~ prophylaxis or periodontal debridement under the supervision of a dentist licensed in this State within the five calendar years immediately preceding initial approval to work without direct supervision;
- (4) ~~successfully complete annual~~ maintain current CPR certification;
- (5) ~~successfully~~ complete at least six hours of Board approved continuing education in dental office medical emergencies, in addition to the ~~requirements of G.S. 90-225.1. minimum hours of~~ continuing education required for license renewal. A list of Board-approved sponsors appears in Rule 16I .0103 of this Subchapter.

(b) To retain eligibility to perform the clinical hygiene procedures set out in G.S. 90-221(a) without direct supervision of a dentist, a dental hygienist ~~must:~~ shall:

- (1) ~~successfully~~ complete at least six hours of Board approved continuing education in dental office medical emergencies each year, in addition to the ~~requirements of G.S. 90-225.1. minimum hours of~~ continuing education required for license renewal.
- (2) ~~successfully complete annual~~ maintain current CPR certification;
- (3) comply with all provisions of the N.C. Dental Practice Act and all rules of the Dental Board applicable to dental hygienists; and
- (4) cooperate ~~fully~~ with all ~~lawful~~ Board inspections of any facility at which the hygienist provides dental hygiene services without direct supervision of a dentist.

History Note: Authority G.S. 90-221; 90-233;

Eff. February 1, 2008.

Amended Eff. June 1, 2015.



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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

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

May 21, 2015

Sent via email to carolin.bakewell@gmail.com:

Carolyn Bakewell
North Carolina State Board of Dental Examiners
507 Airport Boulevard, Ste. 105
Morrisville, North Carolina 27560

Re: 21 NCAC 16R .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109,
.0110, .0201, .0202, .0203, .0204, .0205, .0206
21 NCAC 16S .0101, .0102, .0202, .0203
21 NCAC 16T .0101, .0102
21 NCAC 16U .0101, .0102, .0103, .0201, .0203, .0204
21 NCAC 16V .0101, .0102
21 NCAC 16W .0101, .0102
21 NCAC 16Y .0101, .0102, .0103, .0104
21 NCAC 16Z .0101

Dear Ms. Bakewell:

At its May 21, 2015 meeting, the Rules Review Commission extended the period of review on the above-identified rules in accordance with G.S. 150B-21.10 and G.S. 150B-21.13. The Commission extended the period of review to allow the North Carolina Board of Dental Examiners additional time to revise the rules in response to the technical change requests.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3074.

Sincerely,

Amber Cronk May
Commission Counsel

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

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

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

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

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

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0101

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

In (a), where can your renewal application be found? Is this information available on your website? Also, what is contained in your renewal application?

In (a), line 4, please change "must" to "shall."

In (a), it appears as though there is either a word missing at the end of "before" on line 4 or you intended to delete the word "on" on line 5? I assume you intended to track the language in 90-31 which says "before January 31"? You said "before midnight on January 31" in 21 NCAC 16R .0102. Also, there appears to be a word missing after "each" on line 5. Did you intend to leave in "year"?

In (a), line 6, please change "will" to "shall."

Given 21 NCAC 16R .0102, why is the language regarding the late fee necessary in this Rule?

If the language in (a) is necessary, how much is the late fee in line 6? I assume that you are referring to the "late fee" up to \$100 set forth in 90-39(2a)? Please cross-reference and add that to your history note. If not, please indicate what late fee you are referring to.

In (b), line 7, please change "are" to "shall be."

In (b), please consider changing "are granted an extension period as set out in Rule .0206 of this Subchapter" to "shall be granted an extension period in accordance with 26 U.S.C. 7508." Of course, this language is only a suggestion, but providing a cross-reference to another cross-reference is not as clear as it could be.

In (b), what are "all other requirements imposed by the Dental Board"? Do you mean the requirements set forth by your rules? Please be more specific as to what those requirements are.

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0101 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0101 APPLICATIONS

(a) A renewal application must be completed [in full] and received in the Board's office by before midnight the close
of business on January 31 of each year for renewal without a fee for late filing. ~~All applications submitted to the~~
~~Board must be completed in full.~~ Renewal applications received after that date will require a late fee.

(b) Eligible licensees as defined by Rule .0206 of this Subchapter are granted an extension period as set out in Rule
.0206 of this Subchapter in which to pay license renewal fees and comply with all other requirements imposed by
the Dental Board as conditions for maintaining licensure and current sedation permits.

History Note: *Authority G.S. 90-28; 90-31; 93B-15;*
 Eff. April 1, 2003;
 Amended Eff. June 1, 2015; February 1, 2008.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0102

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

In (a), what is the fee required? Please consider adding a cross-reference to 21 NCAC 16M .0101 (assuming this is correct).

In (b), why is it necessary to add that there will be a renewal fee when it is already in 21 NCAC 16R .0102. Since this is duplicative, it seems unnecessary.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0102 is amended as published in 29:04 NCR 409 as follows:

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

(a) If the application for a renewal certificate, accompanied by the fee required, is not received in to the Board's office ~~by the close of business~~ before midnight on January 31 of each year, an additional fee of fifty dollars (\$50.00) shall be charged for the renewal certificate.

(b) A fee of twenty-five dollars (\$25.00) shall be charged for each duplicate of any license or certificate issued by the Board.

*History Note: Authority G.S. 90-31; 90-39;
Eff. April 1, 2003;
Amended Eff. June 1, 2015; February 1, 2008.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0103 - .0107

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please put all consecutive repealed rules (21 NCAC 16R .0103 through .0107) on one form in and in one document in accordance with 26 NCAC 02C .0403 and 26 NCAC 02C .0406(b). You can find an example of how to repeal consecutive rules at <http://www.oah.state.nc.us/rules/examples.html>.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0103 is repealed as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0103 CONTINUING EDUCATION REQUIRED

~~As a condition of license renewal, every dentist must complete a minimum of 15 clock hours of continuing education each calendar year. Any or all of the hours may be acquired through self study courses. For self study courses to be counted towards this continuing education requirement, the dentist must successfully complete a test following the course and obtain a certificate of completion. Current certification in CPR is required in addition to the mandatory continuing education hours.~~

History Note: Authority G.S. 90-31.1;

Eff. May 1, 1994;

Amended Eff. November 1, 2008; August 1, 1998.

Repealed Eff. June 1, 2015.

21 NCAC 16R .0104 is repealed as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0104 APPROVED COURSES AND SPONSORS

~~(a) Courses allowed to satisfy the continuing education requirement must be related to clinical patient care. Hours devoted to financial issues or practice development topics will not be counted toward the continuing education requirement. Hours spent reviewing dental journals, publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self study courses as described in Rule .0103 of this Subchapter that are offered by Board approved sponsors.~~

~~(b) Approved continuing education course sponsors include:~~

- ~~(1) — those recognized by the Continuing Education Recognition Program of the American Dental Association;~~
- ~~(2) — the Academy of General Dentistry;~~
- ~~(3) — North Carolina Area Health Education Centers;~~
- ~~(4) — educational institutions with dental, dental hygiene or dental assisting schools or departments;~~
- ~~(5) — national, state or local societies or associations; and~~
- ~~(6) — local, state or federal governmental entities.~~

History Note: Authority G.S. 90-31.1;

Eff. May 1, 1994;

Amended Eff. November 1, 2008; April 1, 2003; April 1, 2001.

Repealed Eff: June 1, 2015.

21 NCAC 16R .0105 is repealed as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0105 REPORTING OF CONTINUING EDUCATION

~~(a) The number of hours completed shall be indicated on the renewal application form submitted to the Board and confirmed by the dentist. Upon request by the Board or its authorized agent, the dentist shall provide documentation of attendance at courses indicated. Such documentation shall be provided by the organization offering or sponsoring the course. Documentation must include:~~

~~(1) the title;~~

~~(2) the number of hours of instruction;~~

~~(3) the date of the course attended;~~

~~(4) the name(s) of the course instructor(s); and~~

~~(5) the name of the organization offering or sponsoring the course.~~

~~(b) All records, reports and certificates relative to continuing education hours must be maintained by the licensee for at least two years and shall be produced upon request of the Board or its authorized agent. Evidence of service or affiliation with an agency or institution as specified in Rule .0106 of this Section shall be in the form of verification of affiliation or employment which is documented by a director or an official acting in a supervisory capacity.~~

History Note: Authority G.S. 90-31.1;

Eff. May 1, 1994;

Amended Eff. April 1, 2003; August 1, 2002; April 1, 2001.

Repealed Eff. June 1, 2015.

21 NCAC 16R .0106 is repealed as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0106 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION

~~(a) Upon receipt of satisfactory written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in Rule .0103 of this Subchapter as follows:~~

~~(1) A dentist who practices not more than 250 clock hours in a calendar year shall be exempted from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, must maintain current CPR certification.~~

~~(2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be exempt from one half of the continuing education courses required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class II dentists, must maintain current CPR certification.~~

~~(3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education and CPR certification requirements.~~

~~(4) A dentist who is disabled may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.~~

~~(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with Rule .0103 of this Section when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test prior to allowing the licensee to resume practice when there is indication of inability to practice dentistry.~~

~~(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:~~

~~(1) service on a full time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or~~

~~(2) service on a full time basis with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule .0105 of this Section.~~

~~(d) Dentists who work at least 20 hours per week in an institution or entity described in (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.~~

~~(e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.~~

1 *History Note:* *Authority G.S. 90-31.1; 90-38;*
2 *Eff. May 1, 1994;*
3 *Amended Eff. November 1, 2008; September 1, 2008; April 1, 2003; April 1, 2001; August 1,*
4 *1998.*
5 *Repealed Eff. June 1, 2015.*
6

21 NCAC 16R .0107 is repealed as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0107 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION

~~If the applicant for a renewal certificate fails to provide proof of completion of reported continuing education hours for the current year as required by Rules .0103 and .0105 of this Section, the Board may refuse to issue a renewal certificate for the year for which renewal is sought until such time as the licensee completes the required hours of education for the current year and meets all other qualifications for renewal. If the applicant applies for credit for or exemption from continuing education hours and fails to provide the required documentation upon request, the Board shall refuse to issue a certificate of renewal until such time as the applicant meets the qualifications for exemption or credit. If an applicant fails to meet the qualifications for renewal, including completing the required hours of continuing education and delivering the required documentation to the Board's office before the close of business on March 31 of each year, the license becomes void and must be reinstated.~~

History Note: Authority G.S. 90-31.1;

Eff. May 1, 1994;

Amended Eff. February 1, 2008; April 1, 2003; April 1, 2001.

Repealed Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0108

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

What are the applicable late filing fees on line 5? Are these the fees pursuant to 21 NCAC 16M .0101?

Where is the Board's office? Do you have an address rule providing your address?

In there a cross-reference that you can provide for the reinstatement application on line 7?

Please add 90-31 to your authority in your history note.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

1 21 NCAC 16R .0108 is adopted as published in 29:04 NCR 409 with changes as follows:

2
3 **21 NCACR 16R .0108 LICENSE VOID UPON FAILURE TO TIMELY RENEW**

4
5 If an application for a renewal certificate, accompanied by the renewal fee and any applicable late filing fees ~~are~~ is
6 not received in the Board's office before midnight on March 31 of each year, the license becomes void and the
7 applicant must apply for reinstatement.

8
9 *History Note: Authority G.S. 90-34*

10 *Eff. June 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0109

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

Is this Rule directing the board to include the license number, name, and date of issuance on the certificate or is this intended to direct the renewal applicant to include this information on the application? Either way, why is this rule necessary?

If this Rule is necessary, delete or define original. Does the license number change at any point in the process? If not, is the word "original" necessary? Also, what do you mean by full name? First and last names or first, middle, and last?

Please add a comma in between "applicant" and "and the date of issuance" for purposes of consistency.

Did you mean 90-31 rather than 90-31.1 as the authority in the history note?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0109 is adopted as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0109 FORM OF CERTIFICATE OF RENEWAL

The certificate of renewal of license shall bear the original license number, the full name of the applicant and the date of issuance.

History Note: Authority G.S. 90-31.1;

Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0110

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

Please delete or define "conspicuously" on line 4.

On line 5, under what circumstances would the certificate be requested?

On line 6, who are the Board's "authorized agents"?

Is the authority cited correct?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0110 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0110 RENEWAL CERTIFICATE MUST BE DISPLAYED

The ~~[original license and]~~ current certificate of renewal of license shall at all times be conspicuously displayed in the office where the dentist is employed, and whenever requested, shall be exhibited or produced to the North Carolina State Board of Dental Examiners or its authorized agents. Photocopies may not be substituted for the ~~[original license,]~~ current certificate of renewal or duplicates issued by the Board.

History Note: Authority G.S. 90-31.1;

Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0201

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

Please add Section .0200 and the name of your Section as this is the first Rule in this Section. Section .0200 was published as "Continuing Education." Please note that Section .0100 is also named "Continuing Education." Why are they the same?

On line 4, "Section" was correct. Please change "Subchapter" back to "Section."

Please change "must" to "shall" on lines 6 and 7.

What do you mean by "related to clinical patient care"? I assume that your regulated public is familiar with this term?

Where can the Board approved sponsors be found? Are they available on your website? Please consider providing a cross-reference to 21 NCAC 16R .0202.

Do all self-study courses offered by Board approved sponsors have tests? Is this a requirement to be approved as a sponsor by the Board?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

1 21 NCAC 16R .0201 is adopted as published in 29:04 NCR 409 with changes as follows:

2
3 **21 NCAC 16R .0201 CONTINUING EDUCATION REQUIRED**

4 Except as permitted in Rule [16R] .0204 of this [Section] Subchapter as a condition of license renewal, every dentist
5 shall complete at least 15 clock hours of continuing education each calendar year. Any or all of the hours may be
6 acquired through self-study courses, provided that the self-study courses must be related to clinical patient care and
7 offered by a Board approved sponsor. The dentist must pass a test following every self-study course and obtain a
8 certificate of completion. Courses taken to maintain current CPR certification shall not count toward the mandatory
9 continuing education hours.

10
11 *History Note: Authority G.S. 90-31.1;*

12 *Eff. June 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0202

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

In (a), please consider adding a cross-reference to the continuing education requirement in 21 NCAC 16R .0201.

In (a), line 4, please change "must" to "shall."

In (a), what do you mean by "clinical patient care"? I assume that your regulated public is familiar with this term? Are they also familiar with what you mean by "financial issues" and "practice development topics"? Is there not any overlap between these types of courses that could cause confusion on what qualifies as each category?

In (a), line 8, please change "Subchapter" to "Section."

Just to make sure that I understand, self-study courses that consist of journals, publications, or videos are acceptable so long as they are related to clinical patient care and are offered by a Board approved sponsor?

Is the history note on this Rule correct?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0202 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0202 APPROVED COURSES AND SPONSORS

(a) Courses allowed to satisfy the continuing education requirement must be related to clinical patient care. Hours devoted to financial issues or practice development topics shall not be counted toward the continuing education requirement. Hours spent reviewing dental journals, publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self-study courses as described in Rule .0201 of this [Section] Subchapter offered by Board approved sponsors.

(b) Approved continuing education course sponsors include:

- (1) those recognized by the Continuing Education Recognition Program of the American Dental Association;
- (2) the Academy of General Dentistry;
- (3) North Carolina Area Health Education Centers;
- (4) educational institutions with dental, dental hygiene or dental assisting schools or departments;
- (5) national, state or local societies or associations; and
- (6) local, state or federal governmental entities.

History Note: Authority G.S. 90-31.1;

Eff. May 1, 1994;

Amended Eff. June 1, 2015; November 1, 2008; April 1, 2003; April 1, 2001.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0203

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

In (a), is it safe to assume that the organization offering or sponsoring a course are those that have already been approved in accordance with 21 NCAC 16R .0202? If it is, are the organizations notified of the requirements in (a)(1) through (a)(5) at some point?

In (b), please delete the period after “(b).”

In (b), line 12, please change “Subchapter” to “Section.”

What does (b) mean? Does “service” mean “employment”? Please be consistent in your terms. Also, what Paragraph are you referring to in 16R .0204? Are you referring to Paragraph (c)? Please consider re-writing this Rule to make it more clear. A suggested re-write would be: “Evidence of service or affiliation... shall be verified by a Director or official acting in a supervisory position.” Of course, this is only a suggestion.

In (c), Paragraph (a) is correct.

In (c), who are authorized agents of the Board? Also, when will this information be requested?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0203 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0203 REPORTING CONTINUING EDUCATION

(a) All licensed dentists shall report the number of continuing education hours completed annually on the license renewal application form submitted to the Board. The organization offering or sponsoring each course shall provide to each attendee a report containing the following information:

(1) course title;

(2) number of hours of instruction;

(3) date of the course attended;

(4) name(s) of the course instructor(s); and

(5) name of the organization offering or sponsoring the course.

(b). Evidence of service or affiliation with an agency or institution as specified in Rule .0204 of this Subchapter [Section] shall be in the form of verification of affiliation or employment documented by a director or an official acting in a supervisory capacity.

(c) All licensed dentists shall maintain the report referred to in sub-paragraph [Paragraph] (a) of this Rule for at least two years following completion of the course and shall produce a copy of the report to the Board or its authorized agent upon demand.

History Note: Authority G.S. 90-31.1;

Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0204

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

In (a), line 5, define or delete "satisfactory."

In (a), line 6, please change "Subchapter" to "Section."

In (a)(1), you have used "exempted" while in (a)(2) and (a)(3), you have used "exempt", please be consistent.

In (a)(4), what is considered "disabled"? Is this defined somewhere?

In (b), line 23, "sub-paragraph (a)" should be "Paragraph (a)." Did you mean Paragraph (a) or your general continuing education Rule? What if a retired or disabled dentist wishes to resume practice full time?

In (b), is your regulated public familiar with "bench tests" and what they entail?

In (b), line 25-26, what do you mean by "if there is evidence that the licensee is unable to practice dentistry competently"? Please provide factors or further clarify.

In (c)(1), line 28, please delete or define "direct."

In (c)(2), please add a comma in between "state" and "or county" for purposes of consistency. You have used the serial comma elsewhere.

In (c)(2), line 31, please delete or define "directly."

In (c)(2), line 32, please change "Subchapter" to "Section."

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

In (e), please add a comma in between “city” and “or county” for purposes of consistency.

In (e), where can the sites approved by the Dental Board found? How is it determined whether a site will be approved? Please provide the factors used in making these decisions.

In (f), line 1, please change “are” to “shall be.”

In (f), line 1, please change “Subchapter” to “Section.”

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16 R .0204 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0204 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION

(a) Upon receipt of satisfactory written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in ~~[this]~~ Rule .0201 of this Subchapter as follows:

(1) A dentist who practices not more than 250 clock hours in a calendar year shall be exempted from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, shall maintain current CPR certification.

(2) A dentist who practices not more than 1,000 clock hours in a calendar year shall be exempt from one half of the continuing education courses required of dentists who practice full time. Such dentists, who shall be known as semi-retired Class II dentists, shall maintain current CPR certification.

(3) A retired dentist who does not practice any dentistry shall be exempt from all continuing education and CPR certification requirements.

(4) A dentist who is disabled may request a variance in continuing education hours during the period of the disability. The Board may grant or deny requests for variance in continuing education hours based on a disabling condition on a case by case basis, taking into consideration the particular disabling condition involved and its effect on the dentist's ability to complete the required hours. In considering the request, the Board may require additional documentation substantiating any specified disability.

(b) In those instances where continuing education is waived and the exempt individual wishes to resume practice, the Board shall require continuing education courses in accordance with sub-paragraph (a) of this Rule when reclassifying the licensee. The Board may require those licensees who have not practiced dentistry for a year or more to undergo a bench test before allowing the licensee to resume practice if there is evidence that the licensee is unable to practice dentistry competently.

(c) Dentists shall receive 10 hours credit per year for continuing education when engaged in any of the following:

(1) service on a full-time basis on the faculty of an educational institution with direct involvement in education, training, or research in dental or dental auxiliary programs; or

(2) service on a full time basis with a federal, state or county government agency whose operation is directly related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule ~~[-0105]-~~.0203 of this Subchapter.

(d) Dentists who work at least 20 hours per week in an institution or entity described in Subparagraph (c)(1) or (2) of this Rule shall receive five hours credit per year for continuing education.

(e) Dentists shall receive up to two hours of continuing education credits per year for providing dental services on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.

1 (f) Eligible licensees as defined by Rule ,0206 of this Subchapter are granted a waiver of their mandatory
2 continuing education requirements.

3
4 *History Note: Authority G.S. 90-31.1; 90-38;*
5 *Eff. June 1, 2015.*
6

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0205

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

You are repealing Rules .0103 and .0105 referenced on line 5. Did you intend to use different Rules as a cross-reference?

What are the other qualifications referenced on line 7? Is there a cross-reference that you can provide? If not, please indicate what the "other qualifications" are.

On line 12, please change "becomes" to "shall become."

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0205 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16R .0205 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION

If an applicant for a renewal of license fails to provide proof of completion of reported continuing education hours for the current year as required by Rules [16R .0201 and .0203 of this Section,] .0103 and .0105 of this Subchapter, the Board shall ~~may~~ refuse to issue a renewal certificate until the licensee completes the required hours of education for the current year and meets all other qualifications for renewal. If an applicant applies for credit for or exemption from continuing education hours and fails to provide the required documentation upon request, the Board shall refuse to issue a certificate of renewal until [such time as] the applicant meets the qualifications for exemption or credit. If an applicant fails to meet the qualifications for renewal, including completing the required hours of continuing education and delivering the required documentation to the Board's office before midnight on March 31 of each year, the license becomes void and [must be reinstated.] the licensee must seek reinstatement.

History Note: Authority G.S. 90-31.1;

Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16R .0206

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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:

Why do you need this Rule? Is there a reason why you could not include the necessary terms (eligible licensee and good standing) in 21 NCAC 16R .0101?

If you do need this Rule, why is it necessary to define "Dental Board" and "Extension Period"?

Please format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16R .0206 is adopted as published in 29:04 NCR 409 as follows:

21 NCAC 16R .0206 DEFINITIONS

The following definitions apply only to this Subchapter:

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

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

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

(4) "Good standing" -- a dentist whose license is not suspended or revoked.

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

Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16S .0101

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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:

Are the hygienists appointed as members solely for hygienists or do they also work with dentists?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16S .0101 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16S .0101 DEFINITIONS

The following definitions are applicable to impaired dentist programs established in accordance with G.S. 90-48.2:

- (1) "Board" ~~means~~ -- the North Carolina State Board of Dental Examiners;
- (2) "Impairment" ~~means~~ -- chemical dependency or mental illness;
- (3) "Board of Directors" ~~means~~ -- individuals comprising the oversight panel consisting of representatives from the North Carolina Dental Society, the Board, licensed dental hygienists, and the UNC School of Dentistry established to function as a supervisory body to the North Carolina Caring Dental Professionals;
- (4) "Director" ~~means~~ -- the person designated by the Board of Directors to organize and coordinate the activities of the North Carolina Caring Dental Professionals;
- (5) "North Carolina Caring Dental Professionals" ~~means~~ -- the program established through agreements between the Board and special impaired dentist peer review organizations formed by the North Carolina Dental Society made up of Dental Society members designated by the Society, the Board, a licensed dental hygienist upon recommendation of the dental hygienist member of the Board, and the UNC School of Dentistry to conduct peer review activities as provided in G.S. 90-48.2(a).
- (6) "North Carolina Caring Dental Professionals members" ~~means~~ -- the two hygienists appointed by the Dental Board and volunteer Dental Society members selected by the Board of Directors from peer review organizations to serve as parties to interventions, to direct impaired dentists into treatment, and as monitors of those individuals receiving treatment. Peer liaisons and volunteers participating in programs for impaired dental hygienists shall be dental hygienists.

History Note: Authority G.S. 90-48; 90-48.2; 90-48.3
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. June 1, 2015; April 1, 2001.

21 NCAC 16S .0102 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16S .0102 BOARD AGREEMENTS WITH PEER REVIEW ORGANIZATIONS

The Board ~~shall~~ may enter into agreements with special impaired dentist peer review organizations, pursuant to G.S. 90-48.2, to establish the North Carolina Caring Dental Professionals to be supervised by the Board of Directors.

Such agreements shall provide for:

- (1) investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practice and practice patterns of licensed dentists and dental hygienists as may relate to impaired dentists and dental hygienists;
- (2) identification, intervention, treatment, referral, and follow up care of impaired dentists and dental hygienists; and
- (3) due process rights for any subject dentist or dental hygienist.

*History Note: Authority G.S. 90-48; 90-48.2; 90-48.3;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. June 1, 2015; April 1, 2001.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16S .0202

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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:

What do you mean by "outside the membership of the Program" on line 5? Do you mean the North Carolina Caring Dental Professionals members" as defined by 21 NCAC 16S .0101?

Delete or define "freely" on line 9.

Who is considered to be the Board's "authorized agents"?

Line 6, please change "Subchapter" to "Section."

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16S .0202 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16S .0202 CONFIDENTIALITY

Information received by the Program regarding voluntary participants shall remain confidential and shall not be released to any party outside the membership of the ~~Program~~ Program, except as set out in Rule .0203(b) of this Subchapter. Voluntary participants who meet the requirements of Rule ~~[.0303(b)]~~ .0203(b) of this Subchapter shall be reported to the Board along with evidence of the events leading to the report. ~~However, information~~ Information received about participants referred to the Program by the Board ~~received as a result of a Board referral~~ shall be freely exchanged with the Board or its authorized agents.

*History Note: Authority G.S. 90-48; 90-48.2;
 Eff. April 1, 1994.
 Amended Eff. June 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16S .0203

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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), how and by whom is the impairment being determined to exist?

In (a), by whom is the intervention to be conducted? Also, delete or define "specialized" on line 5.

In (a), line 6, delete or define "appropriate."

In (b), line 8, what do you mean by "other information"?

In (b), line 10, delete or define "detailed."

Is the language in (b)(1) through (b)(3) being used to mirror G.S. 90-48.2 (d)(1) through (d)(3)? Does your regulated public understand what this means? The use of "imminent" in (d)(1), "exhibits professional competency" in (d)(2), and "reasonably" (d)(3) could be more clear. Also, what are the "other grounds" referenced in (d)(3)?

In (c), what do you mean by medical professionals and treatment sources will be consulted "as necessary"? What will this be based on? Also, what are the Program's directives?

In (d), what do you mean by "expeditiously as possible"?

In (e), line 19, please change "Subchapter" to "Section."

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16S .0203 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16S .0203 INTERVENTION AND REFERRAL

(a) Following an investigation, if an impairment is determined to exist and confirmed, an intervention shall be conducted using specialized techniques designed to assist the dentist or dental hygienist in acknowledging responsibility for dealing with the impairment. The dentist or dental hygienist shall be referred to an appropriate treatment source.

(b) Following an investigation, intervention, treatment, or upon receipt of a complaint or other information, a peer review organization participating in the North Carolina Caring Dental Professionals shall report to the Board detailed information about any dentist or dental hygienist licensed by the Board, if it is determined that:

- (1) the dentist or dental hygienist constitutes an imminent danger to the public or himself or herself;
- (2) the dentist or dental hygienist refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or
- (3) it reasonably appears that there are other grounds for disciplinary action.

(c) Program members may consult with medical professionals and treatment sources as necessary in carrying out the Program's directives.

(d) Interventions shall be arranged and conducted as expeditiously as possible. When interventions are conducted as a direct result of a Board-initiated referral, a Board representative may be present.

(e) The Program shall evaluate and approve treatment sources as set out in Rule .0204 of this [Section] Subchapter
~~Treatment sources shall be evaluated and determined applicable~~ before an individual is referred for treatment, and any treatment contracts or aftercare agreements shall be documented and recorded by the Program.

(f) The Program shall document the reasons why any treatment source is not approved.

History Note: Authority G.S. 90-48; 90-48.2; 90-48.3;
Eff. April 1, 1994;
Temporary Amendment Eff. August 20, 1999;
Amended Eff. June 1, 2015; April 1, 2001.

21 NCAC 16T .0101 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16T .0101 RECORD CONTENT

~~(a)~~ A dentist shall maintain complete treatment records on all patients treated for a period of at least 10 years.

Treatment records may include such information as the dentist deems appropriate but shall ~~must~~ include:

- ~~(1)~~ (a) Patient's full name, address and treatment dates;
- ~~(2)~~ (b) Patient's nearest relative or responsible party;
- ~~(3)~~ (c) Current health history;
- ~~(4)~~ (d) Diagnosis of condition;
- ~~(5)~~ (e) Specific treatment rendered and by whom; ~~and~~
- ~~(6)~~ (f) Name and strength of any medications prescribed, dispensed or administered along with the quantity and date ~~provided.~~ provided;
- ~~(7)~~ (g) Work orders issued during the past two years;
- ~~(8)~~ (h) Treatment plans for patients of record, except that treatment ~~[record. Treatment]~~ plans are not required for patients seen only on an emergency basis;
- ~~(9)~~ (i) Diagnostic radiographs, study models and other diagnostic aids, if taken; and
- ~~(10)~~ (j) Patients' financial records and copies of all insurance claim forms.

~~(b) Records may also include the following:~~

- ~~(1) Treatment plans;~~
- ~~(2) Radiographs, study models and other diagnostic aids; and~~
- ~~(3) Patient's financial records and copies of all insurance claim forms.~~

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

Eff. October 1, 1996.

Amended Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16T .0102

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Is your regulated public familiar with the requirements of HIPAA? Also, are they familiar with what "applicable law" you are referring to on line 5?

On line 6, please delete or define "legible" and "complete."

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16T .0102 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16T .0102 TRANSFER OF RECORDS UPON REQUEST

A dentist shall, upon request by the patient of record, provide all information required by the Health Information Insurance Portability and Accountability Act (HIPAA) and other applicable law, including original or diagnostic copies of radiographs and a legible copy summary of the complete treatment record to the patient or to a licensed dentist identified by the patient. The dentist may charge a fee not exceeding the actual cost of duplicating the records. ~~A fee may be charged for duplication of radiographs and diagnostic materials.~~ The ~~treatment summary and radiographs records~~ shall be provided within 30 days of the request and production shall not be contingent upon current, past or future dental treatment or payment of services.

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

Eff. October 1, 1996;

Amended Eff. June 1, 2015; April 1, 2014; November 1, 2008.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16U .0101

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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, how is it determined whom the other Board member may be? Will they be appointed by the Secretary-Treasurer as indicated on lines 6-7? If so, I would suggest moving (or adding) the added language on lines 6-7 to make clear how the other Board member will be determined.

Please change "which" to "that" on line 9.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16U .0101 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16U .0101 SECRETARY-TREASURER

The Board's Secretary-Treasurer or another Board member ~~appointed by the Board's President~~ shall supervise and direct investigations of acts or practices that might violate the provisions of the Dental Practice Act, the Dental Hygiene Act or the Board's Rules. The Secretary-Treasurer or other Board member appointed by the Secretary-Treasurer ~~Board's President~~, in consultation with the Investigative Panel, shall determine whether cases involving licensees, interns or applicants for licenses or permits shall be set for hearing or settlement conference and recommend to the Board dispositions of cases which are not set for hearing or settlement conference.

History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231;

Eff. October 1, 1996.

Amended Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16U .0102

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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, how is it determined whom the other Board member may be? Will they be appointed by the Secretary-Treasurer as indicated on lines 6-7? If so, I would suggest moving (or adding) the added language on lines 6-7 to make clear how the other Board member will be determined.

On line 5, please delete "such." Also, how is it determined whether other staff members will be included on the panel?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16U .0102 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16U .0102 INVESTIGATIVE PANEL

The Secretary-Treasurer or another Board member ~~appointed by the President~~ shall chair the Investigative Panel. The Board's Counsel, ~~Investigations Coordinator, Director of Investigations,~~ Investigators and such other staff members ~~appointed by~~ as the Secretary-Treasurer ~~President may from time to time appoint~~ shall serve on the Panel. The Investigative Panel shall conduct investigations and prepare and present the Board's case in all reinstatement cases, and disciplinary proceedings ~~contested case hearings~~ and in civil actions to enjoin the unlawful practice of dentistry.

History Note: Authority G.S. 90-28; 90-40.1; 90-41; 90-41.1; 90-48; 90-223; 90-231; 150B-40;

Eff. October 1, 1996.

Amended Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16U .0103

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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 format revisions to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

90-113.74 requires that Boards adopt rules setting the criteria by which the Department may report the information to the agency. Are there factors or other information that can be provided to make clear when DHHS may submit the report? As written, it is unclear what DHHS will use to determine whether there is a belief that provides a basis to investigate. Also, are they familiar with what "laws" you are referring to?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16U .0103 is adopted as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16U .0103 REPORTS FROM THE CONTROLLED SUBSTANCES REPORTING SYSTEM

The Department of Health and Human Services (DHHS) may submit a report to the North Carolina State Board of Dental Examiners if it receives information that DHHS believes provides a basis to [investigation] investigate whether a dentist has issued prescriptions for controlled substances in a manner that may violate laws governing the prescribing of controlled substances or the practice of dentistry.

History Note: Authority G.S. 90-41; 90-113.74.

Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16U .0201

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

For the cases in (1) and (2) is there not a requirement that the licensees be notified at some point?

How is it determined whether there is an emergency action required in (1)?

How is it determined whether notification will jeopardize evidence in (2)?

In line 9, please delete or define "full and accurate."

How is "good cause" determined? What factors will be considered?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16U .0201 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16U .0201 PROCESSING

Licensees shall be notified of ~~patient~~ complaints against them and given an opportunity to respond ~~except~~ except in cases:

- (1) ~~In cases~~ requiring emergency action for the protection of the public health, safety or welfare; or
- (2) ~~In cases where~~ in which notification may jeopardize the preservation or procurement of relevant evidence.

Within 15 days of receipt of a complaint, licensees shall file with the Board a full and accurate written response to the complaint. Extensions of time to respond may be granted by the Secretary-Treasurer or his designee for good cause shown.

*History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231; 150B-41;
Eff. October 1, 1996.
Amended Eff. June 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16U .0203

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

Who is involved in a pre-hearing conference? It might be helpful to add some sort of introductory paragraph giving a brief overview regarding pre-hearing conferences to tie the entire Rule together.

In (b), how is it determined who will present the information?

In (b), by "circumstances of the investigation," do you mean the complaint against the licensee, the information received by DHHS, etc?

In (c), how is it determined whether sanctions will be appropriate? Is this information provided in another Rule or Statute? If so, please provide a cross-reference. If not, please provide additional information as to how this determination will be made and the factors that will be used in making this determination

In (c), by whom will the Consent Order or letter of reprimand be drafted?

In (c), line 13, please 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.

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16U .0203 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16U .0203 PRE-HEARING CONFERENCES

(a) A pre-hearing conference shall not be conducted unless the Respondent agrees to participate.

(b) A pre-hearing conference shall be conducted before the Investigative Panel. At the pre-hearing conference, a ~~member of the Investigative Panel~~ ~~Board investigator~~ shall summarize the circumstances of the investigation. The Respondent shall have an opportunity to respond and to submit documentation. The pre-hearing conference shall not be recorded nor open to the public.

(c) Following the pre-hearing conference, the Respondent shall be advised in writing of the proposal for disposition of the matter by the Board member presiding over the pre-hearing conference. If the Board member presiding over the pre-hearing conference deems sanctions are appropriate, a Consent Order or letter of reprimand shall be proposed. ~~If Should~~ the Respondent ~~accept~~ accepts the terms, the proposed Consent Order or letter of reprimand must be approved by the full Board. ~~If Should~~ the Respondent ~~reject~~ rejects the terms of a proposed Consent Order or letter of reprimand, the Board member presiding over the pre-hearing conference shall direct disposition of the matter under Rule .0202 of this Subchapter.

History Note: *Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-229; 90-231; 150B-41;*

Eff. October 1, 1996.

Amended Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16U .0204

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

In (a), what do you mean by "forecast of the evidence"? What is the difference between this and the summary of the circumstances of the case? Is the evidence gathered by the investigative panel not provided in the summary referenced in 21 NCAC 16U .0203? Since the same phrase is used, please be sure that the use is consistent.

In (b), how is the amount of time allowed for the presentations determined?

In (c), how is it determined whether sanctions are appropriate? Is there another rule or statute that you can cross-reference?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16U .0204 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16U .0204 SETTLEMENT CONFERENCES

(a) A settlement conference shall not be conducted unless the Respondent agrees to participate and to waive any objection to the Board being exposed to a forecast of the evidence.

(b) A settlement conference shall be conducted before the Board or a panel of the Board appointed by the President.

At the settlement conference, ~~a Board investigator member of the Investigative Panel~~ shall summarize the circumstances of the investigation and present a forecast of the Board's evidence. The Respondent shall have an opportunity to forecast his or her ~~evidence.~~ evidence and may be questioned by the Investigative Panel and Board

members. Forecasts of the evidence may be presented orally or in writing and exhibits may be presented. The complaining party ~~Witnesses~~ may forecast his or her ~~their own~~ testimony but shall not be sworn nor cross-examined.

No live witnesses other than the Respondent and complainant may testify. The settlement conference shall not be recorded nor open to the public. The allowed time for ~~initial~~ the presentations shall be ~~agreed upon by counsel ten days prior to the conference, subject to approval by the presiding Board member.~~ determined by the Board.

(c) If the Board deems sanctions are appropriate, a Consent Order or letter of reprimand shall be proposed. Should If the Respondent rejects ~~reject~~ the terms of the Consent Order or letter of reprimand, a contested case hearing may be scheduled.

History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-229; 90-231; 150B-41;

Eff. October 1, 1996.

Amended Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16V .0101

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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 4, is "but not limited to" necessary?

In (1), what do you mean by "otherwise acted against"? I understand the need for a catch-all here, but is there a rule or statute that you can cross-reference?

In (3), what do you mean by "sexual assault or battery?" Are you referring to a criminal standard?

In (4), what do you mean by "lawful" on line 14 and "lawfully-issued" on line 15?

In (6), please add a comma after "patient's guardian" for purposes of consistency.

In (10), what are the "applicable state and federal agencies"? Is your regulated public familiar with these?

In (12), please delete the "and" at the end of the item.

In (14), please delete or define "timely."

In (16), is there a rule that prevents this? Also, please change "license" to "licensed."

In (17), what do you mean by "lawful request"?

In (18), is there a rule that prevents this?

In (19), what do you mean by "anything of value"?

In (20) and (21), is there a rule that requires this?

What do you mean by (22)? Please consider revising to make more clear.

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

In (25), is there a rule requiring this?

Why is (26) necessary, given (4)?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16V .0101 is amended as published in 29:15 NCR 1743 as follows:

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

Unprofessional conduct by a dentist shall include, but not be limited to, the following:

- (1) Having a license to practice dentistry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country; (For purposes of this Section, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined.)
- (2) Intentionally presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;
- (3) Committing any act which would constitute sexual assault or battery in connection with the provision of dental services;
- (4) Violating any lawful order of the Board previously entered in a disciplinary hearing, or failing to comply with a lawfully-issued subpoena of the Board;
- (5) Conspiring with any person to commit an act, or committing an act which would tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) Failing to identify to a patient, patient's guardian or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) Prescribing, procuring, dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) Pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) Forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;
- (10) Failing to provide radiation safeguards required by ~~the Radiation Protection Section of the State Department of Environment, Health, and Natural Resources;~~ applicable state and federal agencies;
- (11) Having professional connection with or lending one's name to the unlawful practice of dentistry;
- (12) Using the name of any deceased or retired and licensed dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist; and
- (13) Failing to comply with any provision of any contract or agreement with the Caring Dental Professionals ~~Program-~~ Program;

- 1 (14) Failing to file a timely, truthful response to a notice of complaint;
2 (15) Failing to notify the Board of a change in current physical address within 10 business days;
3 (16) Permitting more than two dental hygienists for each license dentist in the office to perform clinical
4 hygiene tasks;
5 (17) Failing to produce diagnostic radiographs or other treatment records on lawful request of the
6 Board or its agents;
7 (18) Soliciting employment of potential patients by live telephone solicitation or permitting or directing
8 another to do so;
9 (19) Giving or paying anything of value in exchange for a promise to refer or referral of potential
10 patients;
11 (20) Failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;
12 (21) Withholding or refusing treatment to an existing patient conditioned upon payment of an
13 outstanding balance;
14 (22) Using protected patient health information, as defined by HIPAA, to solicit potential payments
15 without the potential patients' prior consent;
16 (23) Making misleading or untruthful statements for the purpose of procuring potential patients, or
17 directing or allowing an employee or agent to do so;
18 (24) Making material false statements or omissions in any communication with the Board or its agents
19 regarding the subject of any disciplinary matter under investigation by the Board;
20 (25) Refusing to permit a Board agent or employee to conduct a sterilization inspection;
21 (26) Failing to comply with a lawfully issued Board subpoena; and
22 (27) Acquiring any controlled substances for any source by fraud, deceit or misrepresentation.

23
24
25
26 *History Note: Authority G.S. 90-28; 90-41; 90-48;*
27 *Eff. August 1, 1998;*
28 *Amended Eff. June 1, 2015; October 1, 2001; August 1, 2000.*
29

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16V .0102

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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 4, is "but not limited to" necessary?

In (1), what do you mean by "otherwise acted against"? I understand the need for a catch-all here, but is there a rule or statute that you can cross-reference?

In (3), what do you mean by "sexual assault or battery?" Are you referring to a criminal standard?

In (4), what do you mean by "lawful" on line 14 and "lawfully-issued" on line 15?

In (9), please delete the "and" at the end of the item.

In (11), please delete or define "timely."

In (13), (14), (15), (16), and (17) is there a rule that prevents this?

In (15), what do you mean by "anything of value"?

What do you mean by (16)? Please consider revising to make more clear.

Why is (19) necessary, given (4)?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16V .0102 is amended as published in 29:15 NCR 1743 as follows:

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

Unprofessional conduct by a dental hygienist shall include, but not be limited to, the following:

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

21 NCAC 16W .0101 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16W .0101 DIRECTION DEFINED

Pursuant to G.S. 90-233(a), a public health hygienist may perform clinical procedures under the direction of a licensed dentist, as defined by Rule 16Y .0104(c) of this Chapter, who is employed by a State government dental public health program or a local health department as a public health dentist. The specific clinical procedures delegated to the hygienist must be completed, in accordance with a written order from the dentist, within 60 days of the dentist's in-person evaluation of the patient. The dentist's evaluation of the patient shall include a complete oral examination, thorough health history and diagnosis of the patient's condition. Direction of a licensed dentist is not required for public health hygienists who provide only educational information, such as instruction in brushing and flossing.

*History Note: Authority G.S. 90-223; 90-233(a);
Temporary Adoption Eff. October 1, 1999;
Eff. April 1, 2001.
Amended Eff. June 1, 2015.*

21 NCAC 16W .0102 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16W .0102 TRAINING FOR PUBLIC HEALTH HYGIENISTS

(a) Prior to performing clinical procedures pursuant to G.S. 90-233(a) under the direction of a duly licensed dentist, a public health hygienist must have:

- (1) five years of experience in clinical dental hygiene;
- (2) current CPR certification, updated annually; taken in a live hands-on course;
- (3) six hours of continuing education in medical emergencies each ~~year;~~ year in addition to the minimum continuing education required for license renewal; and
- (4) such other training as may be required by the Dental Health Section of the Department of Health and Human Services.

(b) For purposes of this Rule, a minimum of ~~4000~~ 4,000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a duly licensed dentist shall be equivalent to five years experience in clinical dental hygiene.

*History Note: Authority G.S. 90-223; 90-233(a);
Temporary Adoption Eff. October 1, 1999;
Eff. April 1, 2001.
Amended Eff. June 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16Y .0101

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

In (b), please consider re-writing the paragraph to eliminate the double negative. Also, how is it determined whether an intern is of "good moral character"?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16Y .0101 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16Y .0101 ELIGIBILITY REQUIREMENTS

(a) Persons shall be eligible for an intern permit under the provisions of G.S. 90-29.4 if they are:

- (1) not licensed to practice dentistry in North Carolina, but are a graduate of and have a DMD or DDS degree from a dental school or program accredited by the Commission on Dental Accreditation of the American Dental Association; or
- (2) a graduate of a dental program other than a program accredited by the Commission on Dental Accreditation of the American Dental Association who has been accepted into a graduate, intern, fellowship, or residency program at a North Carolina Dental School or teaching hospital offering programs in dentistry.

(b) an intern permit shall not be granted to an individual who:

- (1) cannot demonstrate good moral character;
- (2) has been disciplined by any dental board or other licensing body in another state or country.

*History Note: Authority G.S. 90-28; 90-29.4; 90-30;
Eff. August 1, 2002;
Amended Eff. June 1, 2015; August 1, 2009.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16Y .0102

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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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)(1), where can the Application be found and what information will be required?

In (a)(5), what are the approved written examinations? Is this exam administered by the Board? If not, where can the information regarding what is considered an approved exam be found?

In (a)(6), please consider adding a cross-reference to 21 NCAC 16M .0101(a)(5).

In (b)(3), delete or define "successfully." By whom is this exam administered?

In (b)(4), delete or define "successfully."

Are the courses listed in (b)(4)(A) through (b)(4)(C) standard courses? Is your regulated public familiar with the laws referenced in (b)(4)(B) and (b)(4)(C)?

In (b)(8), is the intern permit fee nonrefundable as in (a)(6)? Also, please consider adding a cross-reference to 21 NCAC 16M .0101(a)(5).

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16Y .0102 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16Y .0102 APPLICATION

(a) Applicants for intern permit who are graduates of dental schools or programs as set out in Rule .0101(1) of this

Subchapter ~~shall~~ **must**:

- (1) complete the Application for Intern Permit as furnished by the Board;
- (2) submit an official copy of dental school transcripts;
- (3) forward a letter from a prospective employer;
- (4) submit a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application;
- (5) ~~successfully complete~~ pass written examination(s) ~~administered~~ approved by the Board; and
- (6) pay the nonrefundable intern permit fee.

(b) Applicants for intern permit who are graduates of a dental program as set out in Rule .0101(2) of this

Subchapter ~~shall~~ **must**:

- (1) submit written confirmation that the applicant has qualified for and is currently enrolled in a graduate, intern, fellowship, or residency program in the North Carolina Dental School or teaching hospital offering programs in dentistry;
- (2) submit written confirmation that an ad hoc committee (consisting of three associate or full professors, only one of whom represents the department in question) has evaluated the applicant's didactic and clinical performance with the point of observation being not less than three months from the applicant's start of the program, and has determined that the applicant is functioning at a professional standard consistent with a dental graduate from an ADA-accredited dental school;
- (3) successfully complete a simulated clinical examination;
- (4) submit written confirmation that the applicant has successfully completed a program of study at the training facility in:
 - (A) clinical pharmacology;
 - (B) prescription writing in compliance with Federal and State laws; and
 - (C) relevant laws and administrative procedures pertaining to the DEA;
- (5) submit a written statement of the total time required to complete the graduate, intern, fellowship, or residency program, and the date that the applicant is scheduled to complete said program;
- (6) submit a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application;
- (7) ~~successfully~~ complete written examination(s) administered by the Board; and
- (8) pay the intern permit fee.

(c) In making application, the applicant shall authorize the Board to verify the information contained in the application or documents submitted or to seek such further information pertinent to the applicant's qualifications or character as the Board may deem necessary pursuant to G.S. 90-41.

(d) Intern permits shall expire on an annual basis and are subject to renewal by the Board upon application and payment of the renewal fee.

History Note: Authority G.S.90-28; 90-29.4;
Eff. August 1, 2002;
Temporary Amendment Eff. January 1, 2003;
Amended Eff. June 1, 2015; January 1, 2004.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16Y .0103

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

In (b), please delete "said." Also, is the list of approved sites available on your website? Do you have an address Rule? If not, please provide your address. Please note that your website is sufficient if this information is available on your website.

In (d), delete or define "reasonable." Also, delete or define "actually."

In (d), please change "which" to "that."

In (d), what do you mean by "results in a diversion of income from the employer"?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16Y .0103 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16Y .0103 EMPLOYMENT

(a) The practice of dentistry under an intern permit is limited to the confines and registered patients of the following employment sites:

- (1) a nonprofit hospital, sanatorium, or a like institution;
- (2) a nonprofit health care facility serving low-income populations; or
- (3) a state or governmental facility or entity or any political subdivision of such.

Each facility or entity set out in Paragraph (a) of this Rule shall submit documentation to the Board evidencing that it meets the qualifications set out in G.S. 90-29.4(3) in order for the facility or site to be considered an approved employment site.

(b) A listing of said approved sites may be obtained from the Board office.

(c) A request for change in practice location shall must be submitted in writing to the Board and is subject to the new practice location meeting the requirements of Paragraph (a) of this Rule.

(d) The holder of an intern permit shall not receive any compensation in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered or engage in any other transaction with the employer which results in a diversion of income from the employer.

History Note: *Authority G.S. 90-28; 90-29.4;*
 Eff. August 1, 2002.
 Amended Eff. June 1, 2015.

21 NCAC 16Y .0104 is amended as published in 29:04 NCR 409 as follows:

21 NCAC 16Y .0104 DIRECTION AND SUPERVISION

(a) Holders of a valid intern permit who are currently licensed in Canada, a U.S. territory or state may practice under direction of one or more dentists with a current and valid North Carolina license. Such directing dentist shall be responsible for all consequences or results arising from the permit holder's ~~permittee's~~ practice of dentistry.

(b) Holders of a valid intern permit who are not currently licensed in Canada, a U.S. territory or state may work only under supervision of one or more dentists with a current and valid North Carolina license. Such supervising dentist shall be responsible for all consequences or results arising from the permit holder's ~~permittee's~~ practice of dentistry.

(c) For purposes of this Section, the acts of a permit holder ~~permittee~~ are deemed to be under the direction of a licensed dentist when performed in a locale where a licensed dentist is not always required to be physically present during the performance of such acts and such acts are being performed pursuant to the dentist's order, control, and approval.

(d) For purposes of this Section, the acts of a permit holder ~~permittee~~ are deemed to be under the supervision of a licensed dentist when performed in a locale where a licensed dentist is physically present during the performance of such acts and such acts are being performed pursuant to the dentist's order, control, and approval.

History Note: Authority G.S. 90-28; 90-29.4;
Eff. August 1, 2002.
Amended Eff. June 1, 2015.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC State Board of Dental Examiners

RULE CITATION: 21 NCAC 16Z .0101

DEADLINE FOR RECEIPT: Friday, May 15, 2015

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:

In (a), is "direct supervision" defined otherwise in rule or statute? If not, please delete or define "direct."

In (a)(3), delete or define "primarily."

In (a)(5), where can the approved continued education be found? Is this information available on your website? Also, please consider adding a cross-reference to the minimum hours of continuing education requirements.

In (b), please change "must" to "shall."

In (b)(1), where can the approved continued education be found? Is this information available on your website? Also, please consider adding a cross-reference to the minimum hours of continuing education requirements.

In (b)(4), please delete or define "fully" and "lawful."

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

Amber Cronk May
Commission Counsel
Date submitted to agency: May 1, 2015

21 NCAC 16Z .0101 is amended as published in 29:04 NCR 409 with changes as follows:

21 NCAC 16Z .0101 ELIGIBILITY TO PRACTICE HYGIENE OUTSIDE DIRECT SUPERVISION

(a) To be eligible to perform the clinical hygiene procedures set out in G.S. 90-221(a) without the direct supervision of a dentist, a dental hygienist ~~must:~~ shall:

- (1) maintain an active license to practice dental hygiene in this State;
- (2) have no prior disciplinary history in any State;
- (3) complete at least three years of experience in clinical dental hygiene or at least 2,000 hours of performing primarily prophylaxis or periodontal debridement under the supervision of a dentist licensed in this State within the five calendar years immediately preceding initial approval to work without direct supervision;
- (4) ~~successfully complete annual~~ maintain current CPR certification;
- (5) ~~successfully~~ complete at least six hours of Board approved continuing education in dental office medical emergencies, in addition to the ~~requirements of G.S. 90-225.1.~~ minimum hours of continuing education required for license renewal.

(b) To retain eligibility to perform the clinical hygiene procedures set out in G.S. 90-221(a) without direct supervision of a dentist, a dental hygienist must:

- (1) ~~successfully~~ complete at least six hours of Board approved continuing education in dental office medical emergencies each year, in addition to the ~~requirements of G.S. 90-225.1.~~ minimum hours of continuing education required for license renewal.
- (2) ~~successfully complete annual~~ maintain current CPR certification;
- (3) comply with all provisions of the N.C. Dental Practice Act and all rules of the Dental Board applicable to dental hygienists; and
- (4) cooperate fully with all lawful Board inspections of any facility at which the hygienist provides dental hygiene services without direct supervision of a dentist.

History Note: Authority G.S. 90-221; 90-233;

Eff. February 1, 2008.

Amended Eff. June 1, 2015.