Burgos, Alexander N

Subject: FW: [External] RE: November RRC Meeting- Request for Technical Changes

---

From: Barney, Meghan E <meghan.barney@oah.nc.gov>
Sent: Tuesday, November 10, 2026 1:33 PM
To: Whitney Waldenberg <Whitney@brockerlawfirm.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>
Subject: Re: [External] RE: November RRC Meeting- Request for Technical Changes

Whitney,
Thank you so much for your edits and responses, the rules are looking good. Just a couple of simple corrections:

Rule .0404 page 2 (e) line 20, there is an extra open parenthesis that needs to be deleted.
Please look at Rules .0404 through .0408 to be sure the highlights, brackets and other formatting is correct

If you are able to make those corrections, then I am comfortable with the rules as revised. Please send the entire rule set including the final revised rules to oah.rules@oah.nc.gov and cc Mr. Burgos and I (or just reply all). Please let us know if anyone from your agency will be present for the meeting, in-person or on WebEx.

Thank you,

Meghan

Meghan Barney
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1925
Email: meghan.barney@oah.nc.gov

Burgos, Alexander N

Subject: FW: [External] RE: November RRC Meeting- Request for Technical Changes
Attachments: 2026-11-06 Board of Dental Examiners Request for Technical Changes.docx; 21 NCAC 16G 0110.docx; 21 NCAC 16G 0111.docx; 21 NCAC 16H 0209.docx; 21 NCAC 16Q .0404.docx; 21 NCAC 16Q .0405.docx; 21 NCAC 16Q .0406.docx; 21 NCAC 16Q .0407.docx; 21 NCAC 16Q .0408.docx

From: Whitney Waldenberg <Whitney@brockerlawfirm.com>
Sent: Monday, November 9, 2026 4:25 PM
To: Barney, Meghan E <meghan.barney@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Doug Brocker <doug@brockerlawfirm.com>; File <file@brockerlawfirm.com>; Sherri Roycroft <sherri@brockerlawfirm.com>
Subject: [External] RE: November RRC Meeting- Request for Technical Changes

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

Good afternoon Meghan,

On behalf of the Board of Dental Examiners, I am attaching the response to your Request for Changes, as well as the revised rules.

If everything looks ok, please let us know if we should resubmit the full set (revised rules and those that did not need revision) to the oah.rules email address.

Thank you,

Whitney

THE Brocker Law Firm P.A.

Whitney Waldenberg*
Of Counsel
The Brocker Law Firm, P.A.
1135 Kildaire Farm Road, Suite 200 | Cary, NC 27511
office 919-415-2357| fax 919-516-9077
whitney@brockerlawfirm.com | www.brockerlawfirm.com

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

This transmission is intended by the sender and proper recipient to be confidential, intended only for the proper recipient and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that the dissemination, distribution or copying of this message is strictly prohibited. If you receive this message in error, or are not the proper recipient, please notify the sender at either the e-mail address or telephone number above and delete this e-mail from your computer. Receipt by anyone other than the proper recipient is not a waiver of any attorney-client, work product, or other applicable privilege. Thank you.

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

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

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

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

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

Note the following general instructions:

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

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16G .0101

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

None

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16G .0110

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(a) *Line 7, You say dental hygienists may aid and assist by completing the course. That means that completing the course is aiding the dentist. If that is your meaning that's fine, but I think you mean they may aid in office procedures "if" they complete the course. "If" makes the completion of the course a required prerequisite to aiding and assisting. Please edit for clarity if necessary.* *Thank you, we have revised to clarify.*

(c) Line 27, This seems to take discretion away from the Board. Was this the intention? It says they shall be reviewed and shall be approved. Could they not be denied after a review? If the Board wants the ability to approve or deny, the rule needs to be edited for clarity. Consider "Courses shall be reviewed at any Board meeting and may be approved if a majority of the Board agrees that the course satisfies the educational requirements of this rule." *Thank you, we have revised to your suggested language.*

(c) *Line 28 please cite more directly to the page where that document is located. The regulated public should not have to hunt from the home page each time. See https://www.oah.nc.gov/rrc-final-guidance-incorporation-links/open* Please see updated address.

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16G .0111

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.
***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(b) Line 9 replace "must" with "shall" We have made this change.

(b) Line 10 replace "must" with "shall" We have made this change.

(c) Line 22 Are you saying that the Board can stop a hygienist from engaging in the task they are certified to complete for any reason and without any process? Does this comply with 150B-19(6) that states an agency may not adopt a rule that allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify the requirement? The power to restrict a license is in G.S. 90-229. We have added that citation to make it clear that the Board may act to regulate the certification under the hygienist license.

(d) Line 26 insert "of" between "ratio" and "1:5" We have made this change.

(e) Line 30-31, Again, this seems to take discretion away from the Board. Was this the intention? It says they shall be reviewed and shall be approved. Could they not be denied after a review? If the Board wants the ability to approve or deny, the rule needs to be edited for clarity. Consider "Courses shall be reviewed at any Board meeting may be approved if a majority of the Board agrees that the course satisfies the educational requirements of this rule." Thank you, we have revised with your suggested language.

(e) Line 32 please cite more directly to the page where that document is located. The regulated public should not have to hunt from the home page each time. See https://www.oah.nc.gov/rrc-final-guidance-incorporation-links/open Please see updated address.

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16H .0104

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

None

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16H .0209

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(a) *Line 7, A dental assistant will aid a dentist "by" successfully completing a course? This does not allow the assistant to aid the dentist in the office but complete a course. Is that what you intended? If that is your meaning that's fine, but I think you mean they may aid in office procedures "if" they complete the course. "If" makes the completion of the course a required prerequisite to aiding and assisting. Please edit for clarity if necessary.* *Thank you, we have made a change to clarify.*

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0404

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(a) Line 10, please cite the page that is closest to the information cited. https://www.ncdentalboard.org/anesthesia.htm We have made this change.

(b)(3) Line 22, please cite the page that is closest to the information cited. https://coda.ada.org/find-a-program We have made this change.

(b)(4) Lines 24-30, there is no supervision requirement for these 20 cases only documentation. Is that intentional and correct? If so, that is fine, I just noted it as a difference between this and (c)(3). Thank you, we have added that.

(b)(4) Line 26 please remove the parentheses around agents We have made this change.

(b)(4) Line 29, based on the style guide we do not use a slash (/) unless it is a defined term or term of art. Sedation and anesthesia are defined separately in .0101. Please edit, "or" could work. We have made this change.

(c) Line 31 you say they may receive a separate certification for the intravenous route, is this required if they are doing to do intravenous route or does permit also allow intravenous route? This is unclear in part because the permit allows training in "any route" does it also permit any route? Please edit for clarity. . . I now see this is answered in (h). Please consider moving the content in (h) to (c) for clarity. We moved (h) up to new (c).

(c)(2) Page 2, Line 1 you already defined CODA in (b) you do not need to repeat it here. We have made this change.

(c)(3) Line 9, please cite to the location where the document is found. I went to the home page listed, searched for guidelines on teaching pain control and still did not locate the

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

document. The regulated public should not have to go searching to something you are citing for incorporation. We have added the specific address.

(d) Line 11 change must to shall We have made this change.

(f) Line 21 consider referencing .0101 for the definition of good standing for clarity. We have added the reference.

(g) Lines 22-23, Is this the evaluation and inspection in .0408 or .0104, if so please reference this, if it is different, then what the evaluation and inspection entails needs to be clear. We have added the references.

(h) Lines 24-27, I am now seeing the answer to the question asked earlier about (c) page 1, line 31. Consider including the information in (h) earlier in (c) for clarity. We moved (h) up to (c).

(i)Line 30, is this inspection the same as .0408 or is it different? If it is consistent with .0408 then please reference if not, please clarify inspection. We have added the reference to both .0104 and .0408.

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0405

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(c) Line 10 change "a" to "an"

(e) Line 16, what is ASA? Is it defined in another rule that can be referenced? ASA is defined in 16Q.0101. It is also a commonly-understood acronym for the regulated individuals.

(e)(1) Line 18, what is ASA I or II? Is this being incorporated from somewhere else? This is from the ASA physical status classification system, something that has been in use since 1961 and is a commonly understood term for the regulated individuals. We have added a citation to the web address where the standards can be found.

(e)(2) Line 20, what is ASA III? Same question as above. This is from the ASA physical status classification system, something that has been in use since 1961 and is a commonly understood term for the regulated individuals. We have added a citation to the web address where the standards can be found.

(f) Line 23, is a patient immobilization device defined somewhere? It is not clear exactly what is included in that term. This is a commonly understood term for the regulated individuals. It is a device to restrict movement to facilitate safe treatment.

(f)(2) Line 25, what is "frequently"? We have changed this to "throughout the sedation procedure" which is more accurate.

(i)(1) Page 2, Line 13-14 Do you intend to have permit holders or applicants who are not seeking or qualified to do intravenous delivery to describe deployment of an intravenous delivery system? That is correct, the permit holders who are not seeking intravenous qualifications only have to describe deployment.

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0406

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(a) Line 5, why did you delete and replace the word Board? Did you intend to insert a comma? Yes, thank you. We have added the comma.

(c) Line 14 you need a "." before 103 Thank you, we have fixed this.

(h) Page 2, Line 3 consider referencing .0101 for the definition of good standing for clarity. We have added the reference.

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0407

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

(a) Line 13, please cite the page as close to the cited information as possible. https://www.ncdentalboard.org/license_renewal.htm We have made this update.

(b) Line 21, consider referencing .0101 for the definition of good standing for clarity. We have added the reference.

(b) Line 22, please cite the page as close to the cited information as possible. Reinstatement is listed on https://www.ncdentalboard.org/license_renewal.htm We have made this update.

(d) Line 31-32, is it only ***itinerant*** *moderate pediatric conscious sedation permit holders that have to follow 1- 5 in (d)? The way the section was edited to include only itinerant holders in the last sentence makes it sound like the items only apply to them but I'm not sure it's what you intended. Please clarify and edit if that wasn't your intent. We have revised to clarify that this applies to all moderate pediatric conscious sedation permit holders by dropping this to a new paragraph. Also, we have changed "itinerant" to "mobile" throughout to be consistent with current usage of the term.*

(e) Page 2, Line 14 consider referencing .0101 for the definition of good standing for clarity.

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

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

AGENCY: Board of Dental Examiners

RULE CITATION: 21 NCAC 16Q .0408

DEADLINE FOR RECEIPT: Friday, November 13, 2026, by 5:00p.m.

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

Generally, for the entire rule, what is an evaluation versus an inspection? I understand from .0104 that there is a facility inspection, a hands on evaluation and a written evaluation. However, in this rule the terms seem to be blurring. You state that the board shall designate "evaluators" on Lines 5 and 6 but then in Line 16 you discuss the "inspection team." Is the inspection team made of evaluators? If they are two different things then please clearly delineate what constitutes an evaluation versus the inspection. Please see the revisions that we have made to clarify that inspections are "facility inspections," so that does not get confused with evaluations, which include hands on demonstrations and written examinations. We have also added clarifying language of "evaluators" and "inspectors".

Lines 18-21 Are there any criteria which the committee bases their decision or can they fail someone for any reason they want to? Is it decided unanimously, by majority vote? We added a reference to Rule .0104, which contains the standards used to make a decision, while considering the recommendation of the evaluator or inspector. The Chair of the Committee makes the determination, but we don't think this requires a change to the rule because it is just the mechanism through which the Committee is acting. Inspectors and evaluators are not Board members, and not all Committee members are Board members, whereas the Chair of the Committee is a Board member.

(f) Line 22-24 Is there a difference between the inspection of the applicant and the inspection of the facility? Based on .0104 it seems that the facility would fail the inspection but the individual would fail the evaluation (either practical or written). Yes, we believe our revisions have clarified this.

(g) You need additional training prior to re-evaluation, what about re-inspection? The differences continue to be confusing. Just for the re-evaluation, not for reinspection of the facility. Please see the revisions to clarify this.

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

(h) Line 34 please remove parentheses in area(s) *We have made this change.*

(g) and (h) Lines 25-34, in (g) you state that a person is required to receive additional training prior to re-evaluation but in (h) you state they can take the written evaluation three times before additional study is required. This appears to be at odds because the written evaluation is part of the evaluation. This needs clarity. *If you fail the demonstration portion of the evaluation, you must get additional training before re-evaluation. For written examination portion of the evaluation, you can fail 3 times before you have to do additional training. The facility re-inspection does not require retraining. The language in the rule is consistent with this, and we made a few revisions to clarify.*

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

Meghan Barney
Commission Counsel
Submitted on: October 30, 2026

21 NCAC 16G .0110 is adopted with changes as published in 40:24 NCR 2028-29 as follows:

21 NCAC 16G .0110 EDUCATIONAL REQUIREMENTS FOR DENTAL HYGIENIST MONITORING NITROUS OXIDE

(a) A dental hygienist may aid and assist a licensed dentist in the monitoring of nitrous oxide-oxygen inhalant sedation under the control and supervision of a dentist ~~by completing~~ if the dental hygienist completes a Board-approved course totaling at least seven hours that covers the following topics:

(1) definitions and descriptions of physiological and psychological aspects of pain and anxiety;

(2) the states of drug-induced central nervous system depression through all levels of consciousness and unconsciousness, with emphasis on the distinction between the conscious and unconscious state;

(3) respiratory and circulatory physiology, and related anatomy;

(4) pharmacology of agents used in the nitrous oxide techniques being taught, including drug interaction and incompatibility;

(5) patient monitoring, with particular attention to vital signs and reflexes related to consciousness;

(6) prevention, recognition, and management of complications and life-threatening situations that may occur during the use of the nitrous oxide techniques, including cardiopulmonary resuscitation;

(7) description and use of ventilation sedation equipment; and

(8) potential health hazards of trace anesthetics, and proposed techniques for elimination of these potential health hazards.

(b) Courses approved to satisfy the educational requirements of this Rule shall be provided and taught by:

(1) an instructor who is a dentist holding an unrestricted license as defined by 21 NCAC 16A .0101(7);

(2) an instructor licensed pursuant to 21 NCAC 16B .0701; or

(3) a dental hygienist or dental assistant under the direction of an instructor who satisfies the requirements of Subparagraph (b)(1) or (b)(2) of this Rule, who shall be physically present and administer nitrous oxide if it is administered in the course.

(c) Courses shall be reviewed at any Board meeting and may be approved ~~by~~ if a majority of the Board ~~to satisfy~~ agrees that the course satisfies the educational requirements of this Rule. A list of approved courses is available on the Board's website at ~~www.ncdentalboard.org.~~ https://www.ncdentalboard.org/continuing_education.htm.

(d) "Monitoring" for purposes of nitrous oxide monitoring only means observation of the patient during the flow of nitrous oxide and includes reducing the flow of nitrous oxide or shutting off equipment controlling such flow. "Monitoring" does not include initiating or increasing the flow of nitrous oxide.

History Note: *Authority 90-29(c)(7); 90-29(c)(13); 90-223(b); 90-233;*
Eff. December 1, 2026.

21 NCAC 16G .0111 is adopted with changes as published in 40:24 NCR 2029 as follows:

21 NCAC 16G .0111 DENTAL HYGIENIST CERTIFICATION TO ADMINISTER NITROUS OXIDE

(a) In addition to aiding and assisting the dentist in monitoring of nitrous oxide-oxygen inhalant sedation, a dental hygienist may obtain a certification to administer nitrous oxide and initiate the flow of nitrous oxide under the control and supervision of a dentist. A dental hygienist shall not initiate or administer nitrous oxide to a patient without first obtaining a nitrous oxide administration certification.

(b) To obtain a nitrous oxide administration certification, the dental hygienist ~~must~~ shall be in good standing and, in addition to successfully completing the course set forth in 21 NCAC 16G .0110, ~~must~~ shall also successfully complete a Board-approved course that includes at least seven hours of didactic instruction and four hours of clinical instruction, and covers the following topics:

(1) pharmacology and physiology;

(2) patient selection and contraindications for administration of nitrous oxide;

(3) sequence of administration and titration of nitrous oxide;

(4) documentation of patient selection and the administration of nitrous oxide;

(5) emergency management; and

(6) legal and ethical considerations in the administration of nitrous oxide.

(c) The instructor of the Board-approved course set forth in Paragraph (b) of this Rule shall issue the nitrous oxide administration course completion certification to the dental hygienist that successfully completes such course. The hygienist shall maintain a certification of completion, a copy of which shall be provided to each dentist that supervises the hygienist's initiation and administration of nitrous oxide. Nothing in this Rule shall restrict the Board's authority pursuant to G.S. 90-229 to restrict a dental hygienist from initiating or administering nitrous oxide after certification is obtained.

(d) Courses approved to satisfy the educational requirements of Paragraph (b) of this Rule shall be provided by an institution accredited by the Commission on Dental Accreditation or otherwise approved by the Board, and the clinical portion of such courses shall not exceed a faculty-to-student ratio of 1:5. The courses shall be taught by:

(1) an instructor who is a dentist holding an unrestricted license as defined by 21 NCAC 16A .0101(7); or

(2) an instructor licensed pursuant to 21 NCAC 16B .0701.

(e) Courses shall be reviewed at any Board meeting and may be approved ~~by~~ if a majority of the Board ~~to satisfy~~ agrees that the course satisfies the educational and instructor requirements of this Rule. A list of approved courses is available on the Board's website at ~~www.ncdentalboard.org.~~ https://www.ncdentalboard.org/continuing_education.htm.

(f) Nothing in this rule shall limit the ability of a lawfully qualified nurse or certified nurse anesthetist to administer nitrous oxide under the supervision and direction of a dentist.

History Note: *Authority G.S. 90-29(c)(7); 90-29(c)(13); 90-223(b); 90-233;*
Eff. December 1, 2026.

21 NCAC 16H .0209 is adopted with changes as published in 40:24 NCR 2030 as follows:

21 NCAC 16H .0209 EDUCATIONAL REQUIREMENTS FOR DENTAL ASSISTANT MONITORING NITROUS OXIDE

A Dental Assistant may aid and assist a licensed dentist in the monitoring of nitrous oxide-oxygen inhalant sedation ~~by successfully completing~~ if the Dental Assistant successfully completes the same course for dental hygienists set forth in 21 NCAC 16G. 0110 and subject to the same requirements set forth in 21 NCAC 16G .0110 for dental hygienists. The requirements apply to Dental Assistants II and those Dental Assistants I who are acting pursuant to 21 NCAC 16H .0104(c). Dental Assistants are not eligible to obtain nitrous oxide administration certification and shall not initiate, administer, or increase the flow of nitrous oxide to any patient.

History Note: *Authority G.S. 90-29(c)(9); 90-29(c)(13);*
Eff. December 1, 2026.

21 NCAC 16Q .0404 is amended with changes as published in 41:2 NCR 221-22 as follows:

21 NCAC 16Q .0404 CREDENTIALS AND PERMITS FOR MODERATE PEDIATRIC CONSCIOUS SEDATION

(a) Before a dentist licensed to practice in North Carolina may administer moderate pediatric conscious sedation, the dentist shall obtain a general anesthesia or moderate pediatric conscious sedation permit from the Board by completing ~~the application requirements of this Rule~~ an application and paying a fee of three hundred seventy-five dollars ($375.00) that includes the one-hundred dollar ($100.00) application fee and the two-hundred seventy-five dollar ($275.00) inspection fee. All applications shall be submitted electronically through the Board's website, [~~www.ncdentalboard.org~~] https://www.ncdentalboard.org/anesthesia.htm and shall include the information required Rule .0102(b) and (c) of this Subchapter and the application requirements of this Rule. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

(b) A dentist applying for a permit to administer moderate pediatric conscious sedation shall hold an unexpired BLS certification and PALS ~~certification~~ certification, and meet at least one of the following criteria:

(1) completion of a postgraduate program that included ~~pediatric~~ ~~intravenous~~ moderate pediatric conscious sedation training;

(2) completion of a Commission On Dental Accreditation (CODA) approved pediatric residency that included ~~intravenous~~ moderate pediatric conscious sedation training; ~~or~~

(3) completion of a pediatric degree or pediatric residency at a CODA approved institution that includes training in ~~the use and placement of IVs or intraosseous vascular access.~~ moderate pediatric conscious sedation. A list of CODA approved institutions that is hereby incorporated by reference, including subsequent amendments and editions, appears at ~~www.ada.org/coda~~ https://coda.ada.org/find-a-program and is available at no ~~cost.~~ cost; or

(4) completion of 60 hours of Board approved didactic instruction in pediatric conscious sedation, and at least 30 hours of clinical training which includes completion of at least 20 individually-managed pediatric moderate sedation cases with sedative [~~agent(s)~~] agents administered by any [~~route.~~] route, under the supervision of the course instructor. Documentation of these cases shall be maintained and available for review, and no patient may be sedated more than once per day. The clinical training must also include 20 additional sedation experiences by individual or group participation, [~~with~~] on human [~~sedation/anesthesia~~] patients or a simulator, [~~simulation experiences~~] or a combination thereof. BLS and PALS training shall not count toward the required hours.

(c) A moderate pediatric conscious sedation permit holder shall not administer sedation by intravenous route unless the permit holder also holds an unexpired pediatric intravenous moderate conscious sedation certification issued by the Board. A moderate pediatric conscious sedation permit holder may administer emergency medication by intravenous route if in compliance with the applicable standard of care.

(d) A dentist applying for a moderate pediatric conscious sedation permit may also receive a separate certification of the permit that allows the dentist to administer pediatric moderate conscious sedation by intravenous route. There is no separate application fee for receiving the certification in addition to the permit. To qualify for the pediatric intravenous moderate conscious certification, the applicant shall hold an unexpired PALS certification and meet at least one of the following criteria:

(1) completion of a postgraduate program that included pediatric intravenous conscious sedation training;

(2) completion of a [~~Commission On Dental Accreditation (CODA) approved~~] CODA-approved pediatric residency that included intravenous conscious sedation training; or

(3) completion of 60 hours of Board approved didactic training in intravenous pediatric conscious sedation, and 30 hours of clinical training that shall include a record of the applicant's individual management of all aspects of intravenous moderate sedation for a minimum of 20 live patients under 18 years of age, under supervision of the course instructor. Training shall be meet the requirements of the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists that is hereby incorporated by reference, including subsequent amendments and editions. The guidelines may be found at [~~www.ada.org.~~] www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/library/oral-health-topics/ada_sedation_teaching_guidelines.pdf. BLS and PALS training shall not count toward the required hours.

[~~(d)~~] (c) (The applicant [~~must~~] shall provide written certification by the director of any program listed in Paragraphs (b) or (c) of this Rule indicating the applicant's competence in moderate sedation techniques for pediatric patients and rescuing pediatric patients from a level of sedation deeper than intended, including advanced airway management and reversal medication use.

~~(c)~~ ~~(e)~~ (f) All applicants for moderate pediatric conscious sedation permits shall have completed the training required by ~~Paragraph~~ Paragraphs (b) or (c) of this Rule within the last two years from the date that the Board received the application. ~~or show evidence~~ If the applicant has completed the training required by Paragraphs (b) or (c) of this Rule more than two years from the date that the Board received the application, the applicant must demonstrate that they have practiced moderate pediatric conscious sedation ~~practice within the last two years~~ in another state or U.S. ~~Territory.~~ Territory within two years from the date that the Board received the application.

~~(d)~~ [~~(f)~~] (g) All applicants for moderate pediatric conscious sedation permits shall be in good standing with the ~~Board.~~ Board, as set forth in Rule .0101 of this Subchapter.

~~(e)~~ [~~(g)~~] (h) Prior to issuance of a moderate pediatric conscious sedation permit, the applicant shall pass an evaluation and a facility inspection in accordance with Rules .0104 and .0408 of this Subchapter. The applicant shall be responsible for passing the evaluation and inspection of his or her facility.

~~[(h) A moderate pediatric conscious sedation permit holder shall not administer sedation by intravenous route unless the permit holder also holds an unexpired pediatric intravenous moderate conscious sedation certification issued by~~

~~the Board. A moderate pediatric conscious sedation permit holder may administer emergency medication by intravenous route if in compliance with the applicable standard of care.]~~

~~(f)~~ (i) A moderate pediatric conscious sedation permit holder may provide moderate pediatric conscious sedation at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the moderate pediatric conscious sedation is administered has been inspected in accordance with Rules .0104 and .0408 of this Subchapter and complies with the requirements set out in Rules .0103 and .0405 of this Subchapter. The permit holder shall also obtain ~~an itinerant~~ a mobile moderate pediatric conscious sedation permit and comply with the requirements of Rule .0406 of this Section.

History Note: *Authority G.S. 90-30.1; 90-39; 90-48;*
Eff. June 1, 2017;
Amended Eff. December 1, 2026; August 1, 2024; February 1, 2019; August 1, 2018.

Formatted: Strikethrough, Highlight

21 NCAC 16Q .0405 is amended with changes as published in 41:2 NCR 222-23 as follows:

21 NCAC 16Q .0405 MODERATE PEDIATRIC CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist holding or applying for a permit to administer moderate pediatric conscious sedation shall be subject to the requirements set out in Section .0100 of this Subchapter.

(b) In addition to the drugs listed in Rule .0103(c)(3) of this Subchapter, an unexpired muscle relaxant shall be immediately available and ~~be~~ accessible from the operatory and recovery rooms.

(c) In addition to the requirements set out in Rule .0103(c)(4) of this Subchapter, the permit holder's emergency manual shall include assignments to be performed in the event of emergency by ~~a BLS certified~~ an auxiliary with an unexpired BLS certification who is dedicated to patient monitoring.

(d) In addition to the requirements set out in Rule .0103(e) of this Subchapter concerning pre-operative procedures, the permit holder shall ensure that patients who have been administered moderate pediatric conscious sedation are monitored for alertness, responsiveness, breathing, and skin coloration during waiting periods before operative procedures by the permit holder or an auxiliary dedicated to patient monitoring.

(e) As part of the pre-operative assessment required by Rule .0103(e) of this Subchapter, including the ASA Guidelines, available at https://www.asahq.org/standards-and-practice-parameters, the permit holder shall evaluate the patient for health risks as follows:

(1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use; or

(2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by the permit holder's consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the planned dental procedure.

(f) If a patient immobilization device is used, the permit holder shall ensure that:

(1) the device is applied to avoid airway obstruction or chest restriction;

(2) the patient's head position and respiratory excursions are checked ~~frequently~~ throughout the sedation procedure to ensure airway patency;

(3) a hand or foot is kept exposed; and

(4) the patient is under observation by the permit holder or a BLS-certified auxiliary at all times.

(g) During the sedation procedure, a moderate pediatric conscious sedation permit holder shall not administer anesthetic or sedative agents:

(1) designed by the manufacturer for use in administering general anesthesia or deep sedation;

(2) determined by the manufacturer to be contraindicated for use in moderate pediatric conscious sedation; or

(3) in amounts exceeding the manufacturers' maximum recommended dosages, unless the permit holder documents in the sedation record the clinical reason for exceeding the maximum recommended dosage for the patient.

(h) In addition to the requirements set out in Rule .0103(h) of this Subchapter concerning the patient treatment record, the permit holder shall maintain documentation of pre-sedation instructions and information provided to the patient or person responsible for the patient, which shall include:

(1) objectives of the sedation;

(2) anticipated changes in patient behavior during and after sedation;

(3) instructions to the person responsible for a patient transported in a child safety seat regarding patient head position to avoid airway obstruction;

(4) a 24-hour telephone number for the permit holder or his or her BLS-certified auxiliaries; and

(5) instructions on limitations of activities and dietary precautions.

(i) For purposes of Rule .0104(b)(2) of this Subchapter, during an evaluation, a moderate pediatric conscious sedation permit holder or applicant shall demonstrate competency in administration of moderate pediatric conscious sedation ~~the deployment of an intravenous delivery system~~ as follows:

(1) a pediatric moderate conscious sedation permit holder or applicant ~~who uses intravenous sedation~~ shall demonstrate the administration of moderate pediatric conscious sedation on a live patient, ~~including~~ and describe the deployment of an intravenous delivery system; and

(2) a permit holder or applicant who ~~does not use intravenous~~ holds or seeks a pediatric intravenous moderate conscious sedation certification ~~shall describe the proper deployment of an intravenous delivery system and~~ shall demonstrate the administration of moderate pediatric conscious sedation on a live ~~patient.~~ patient by intravenous route.

History Note: *Authority G.S. 90-28; 90-30.1; 90-48;*
Eff. June 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. December 1, 2026; June 17, 2024; February 1, 2019; August 1, 2018.

Burgos, Alexander N

From: Barney, Meghan E
Sent: Friday, October 30, 2026 4:18 PM
To: Whitney@brockerlawfirm.com
Cc: Burgos, Alexander N
Subject: November RRC Meeting- Request for Technical Changes
Attachments: 11-2026-Board of Dental Examiners Request for Technical Changes.docx

Good afternoon,

I'm the attorney who reviewed the rules submitted by the North Carolina State Board of Dental Examiners for the November 2026 RRC meeting. The RRC will formally review this rule at its meeting on Tuesday, November 24, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised rules to me via email, no later than 5 p.m. on November 13, 2026. Let me know if you have any questions.

Thanks,

Meghan

Meghan Barney
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1925
Email: meghan.barney@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.