



## NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

**OAH USE ONLY**

VOLUME:

ISSUE:

**CHECK APPROPRIATE BOX:**

- Notice with a scheduled hearing  
 Notice without a scheduled hearing  
 Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.  
Previous publication of text was published in Volume:            Issue:

1. Rule-Making Agency: The North Carolina State Board of Dental Examiners

2. Link to agency website pursuant to G.S. 150B-19.1(c): [www.ncdentalboard.org](http://www.ncdentalboard.org)

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

- ADOPTION:
- READOPTION with substantive changes: 21 NCAC 16P.0105
- READOPTION without substantive changes:
- AMENDMENT:
- REPEAL:

4. Proposed effective date: September 1, 2018

5. Is a public hearing planned?  Yes  No

If yes: Public Hearing date: June 7, 2018

Public Hearing time: 6:00 pm

Public Hearing Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

**7. Explain Reason For Proposed Rule(s):** During the periodic review of existing rules, 21 NCAC 16P.0105 was identified as a rule with substantive public interest. The Dental Board is proposing amendments to 16P.0105 based on comments it has received from the public.

**8. Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

**9. The person to whom written comments may be submitted on the proposed rule(s):**

Name: Bobby D. White, Esq.

Address: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

Phone (optional):

Fax (optional):

E-Mail (optional):

**10. Comment Period Ends: July 2, 2018**

**11. Fiscal impact (check all that apply).**

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected  
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact ( $\geq$ \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

**12. Rule-making Coordinator:** Whitney Waldenberg

Address: 2000 Perimeter Park Drive, Suite 160,  
Morrisville, NC 27560

Phone: 919-610-0573

E-Mail: whitney@brockerlawfirm.com


Agency contact, if any:

Phone:

E-mail:

**13. The Agency formally proposed the text of this rule(s) on  
Date: March 9, 2018**

**14. Signature of Agency Head\* or Rule-making Coordinator:**



\*If this function has been delegated (reassigned) pursuant to  
G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Whitney Waldenberg

Title: Rulemaking Coordinator

1 21 NCAC 16P .0105 is proposed for readoption with substantive changes as follows:

2  
3 **21 NCAC 16P .0105      ADVERTISING AS A SPECIALIST**

4 ~~Only dentists who have successfully completed a postdoctoral course approved by the American Dental Association~~  
5 ~~Commission on Accreditation in a specialty area recognized by the ADA or have been approved by one of the~~  
6 ~~specialty examining Boards recognized by the ADA may announce a specialty practice and advertise as a specialist.~~

7 (a) A dentist shall not advertise or otherwise hold himself or herself out to the public as a specialist, or use any  
8 variation of the term, in an area of practice if the communication is false or misleading under Rule.0101 of this  
9 Section. It shall not be false or misleading for a dentist who completed a postdoctoral advanced dental educational  
10 program approved by the American Dental Association Commission on Dental Accreditation to hold himself or  
11 herself out to the public as a specialist in that practice area.

12 (b) A dentist shall not advertise or otherwise hold himself or herself out to the public as a certified specialist or  
13 board-certified specialist, or use any variation of those terms, unless she or he holds current certification by a  
14 specialty board approved by the American Dental Association (ADA), the American Board of Dental Specialties  
15 (ABDS), the Royal College of Dentists of Canada (RCDC), or an equivalent specialty board. The following criteria  
16 shall be used in determining an equivalent specialty board:

17       (1) the organization requires completion of a training program with training, documentation, and clinical  
18 requirements similar in scope and complexity to programs approved by the ADA, ABDS, or RCDC in the  
19 specialty or subspecialty field of dentistry in which the dentist seeks certification. Programs that require  
20 solely experiential training, continuing education classes, on-the-job training, or payment to the specialty  
21 board shall not constitute an equivalent specialty board;

22       (2) the organization requires all dentists seeking certification to pass a written or oral examination, or both,  
23 that tests the applicant’s knowledge and skill in the specialty or subspecialty area of dentistry and includes  
24 a psychometric evaluation for validation;

25       (3) the organization has written rules on maintenance of certification and requires periodic recertification;

26       (4) the organization has written by-laws and a code of ethics to guide the practice of its members; and

27       (5) the organization has staff to respond to consumer and regulatory inquiries.

28 (c) A dentist advertising or otherwise holding himself or herself out to the public as a “certified specialist” or  
29 “board-certified specialist” shall disclose in the advertisement or communication the specialty board by which the  
30 dentist was certified and provide information about the certification criteria or where the certification criteria may be  
31 located.

32 (d) A dentist shall maintain documentation of current specialty certification and provide the documentation to the  
33 Board upon request. Dentists who have been certified by specialty boards other than the ADA, the ABDS or the  
34 RCDC shall maintain documentation demonstrating that the certifying board qualifies under the criteria in  
35 Subparagraphs (b)(1) through (5) of this Rule, and provide the documentation to the Board upon request.

36 (e) Nothing in this Section shall be construed to prohibit a dentist who does not qualify as a ~~specialist~~ “certified  
37 specialist” or “board certified specialist” under ~~the preceding paragraph~~ Paragraph (b) of this Rule from restricting

1 his or her practice to one or more specific areas of dentistry or from advertising the availability of his or her  
2 ~~services. services, provided that Such such~~ advertisements ~~may do not, not~~ however, include the terms “specialist,”  
3 “specialty,” or “specializing” “certified specialist,” or “board-certified specialist,” or any variation of those terms.  
4 ~~and must state that the services advertised are to be provided by a general dentist.~~

5 *History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;*  
6 *Eff. March 1, 1985;*  
7 *Readopted Eff. \_\_\_\_\_; April 1, 2003; May 1, 1989.*

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