

## SUBCHAPTER 16A – ORGANIZATION

### 21 NCAC 16A .0101 DEFINITIONS

As used in this Chapter:

- (1) "Applicant" means a person applying for any license or permit issued by the Board;
- (2) "Board" means the North Carolina State Board of Dental Examiners;
- (3) "Candidate" means a person who has applied and been accepted for examination to practice dentistry or dental hygiene in North Carolina;
- (4) "Current license" means a license that is renewed by the licensing board as required;
- (5) "CPR certification" means that the licensee has successfully completed a CPR course that meets American Red Cross or American Heart Association standards for certification and that provides manikin testing on the subjects of cardio-pulmonary resuscitation. The course must also cover the use of an automatic external defibrillator, unconscious and conscious choking and rescue breathing, provided that the foregoing requirements shall not be interpreted in any way that violates the Americans with Disabilities Act. The manikin testing must be provided by an instructor who is physically present with the students;
- (6) "Internship" means practice in an educational training program. Internship does not mean practice under an intern permit while holding an unrestricted general dental or dental specialty license issued by a state, U.S. territory or the District of Columbia; and
- (7) "Unrestricted license" means a license that is not under suspension or inactivation, or subject to the terms of a consent order or other disciplinary action imposed by the jurisdiction that issued the license, or limited by supervision or location requirements.

*History Note:* Authority G.S. 90-26; 90-28; 90-29(a); 90-29.3; 90-29.4; 90-29.5; 90-30; 90-37.1; 90-43; 90-48; 90-224; 90-224.1; 90-226;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1991; May 1, 1989; September 1, 1988; October 1, 1986;  
Temporary Amendment Eff. January 1, 2003;  
Amended Eff. May 1, 2011; January 1, 2004.

### 21 NCAC 16A .0102 ORGANIZATION

### 21 NCAC 16A .0103 FUNCTIONS

*History Note:* Authority G.S. 90-22 et seq.; 90-26; 90-43; 90-48; 90-221 et. seq.;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. March 1, 1985;  
Repealed Eff. October 1, 1986.

### 21 NCAC 16A .0104 LOCATION

- (a) The Board maintains its offices at 507 Airport Boulevard, Suite 105, Morrisville, N.C. 27560.
- (b) The Board's telephone number is (919) 678-8223. The Board's offices are open from 8:30 a.m. to 5:30 p.m., Monday through Friday.

*History Note:* Authority G.S. 90-26; 90-43; 90-48;  
Eff. May 1, 1989;  
Amended Eff. February 1, 2008; September 1, 2001; May 1, 1991.

**SUBCHAPTER 16B - LICENSURE DENTISTS**

**SECTION .0100 - GENERAL PROVISIONS**

**21 NCAC 16B .0101 EXAMINATION REQUIRED**

All persons desiring to practice dentistry in North Carolina are required to pass Board approved, according to these Rules, written and clinical examinations before receiving a license.

*History Note:* Authority G.S. 90-28; 90-30; 90-36; 90-38; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. March 1, 2006; May 1, 1991; May 1, 1989; January 1, 1983.

**21 NCAC 16B .0102 NO RECIPROCAL ARRANGEMENT**

The Board does not grant any licenses by reciprocity.

*History Note:* Authority G.S. 90-28; 90-30; 90-36; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

## **SECTION .0200 - QUALIFICATIONS**

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

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

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

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2009; March 1, 2006; May 1, 1989; October 1, 1986.*

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

Applications for a dental license will be accepted from students currently enrolled in schools of dentistry. Such applications will automatically be deemed denied if the applicant should fail to complete the required course of study or fail Board approved licensure examinations.

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. March 1, 2006; September 26, 1977.*

### **21 NCAC 16B .0203 TRANSCRIPTS REQUIRED**

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989;  
Repealed Eff. March 1, 2006.*

## SECTION .0300 - APPLICATION FOR LICENSURE

### 21 NCAC 16B .0301 APPLICATION FOR LICENSURE

- (a) All applications are to be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required relative to the applicant. Any candidate who changes his address shall immediately notify the Board office. Applicants shall furnish transcripts of undergraduate college and dental school credits.
- (b) The application fee shall accompany the application. Such fee is non-refundable.
- (c) Applicants who are licensed in other states shall furnish verification of licensure from the secretary of the dental board of each state in which they are licensed. A photograph, taken within six months prior to the date of the application, must be affixed to the application.
- (d) All applicants shall submit to the Board 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.
- (e) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule .0303(a) of this Subchapter. All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule .0303(c) of this Subchapter, if applicable.

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

### 21 NCAC 16B .0302 CONSENT FOR BOARD INVESTIGATION

In making application, the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualifications or character as the Board may deem proper. The applicant consents that his character and reputation may be inquired into, and waives any right he may have to recover damages against the Board, any member thereof or its agents, or any person who answers a Board inquiry in good faith and without malicious intent.

*History Note:* Authority G.S. 90-28; 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

- (a) All applicants for dental licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16B .0406(c).
- (b) All applicants for dental licensure shall achieve passing scores on written and clinical examinations administered by the Board or Board approved testing agencies according to this Rule.
- (c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.
- (d) The clinical examination shall:
- (1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;
  - (2) include procedures performed on human subjects as part of the assessment of restorative clinical competencies;
  - (3) include evaluations in at least four of the following subject matter areas:
    - (A) periodontics, clinical abilities testing;
    - (B) endodontics, clinical abilities testing;
    - (C) amalgam preparation and restoration;
    - (D) anterior composite preparation and restoration;
    - (E) posterior ceramic or composite preparation and restoration;
    - (F) cast gold, clinical abilities testing;
    - (G) prosthetics, written or clinical abilities testing;

- (H) oral diagnosis, written or clinical abilities testing; or
  - (I) oral surgery, written or clinical abilities testing.
- (4) provide the following:
- (A) anonymity between applicants and examination raters;
  - (B) standardization and calibration of raters;
  - (C) a mechanism for post exam analysis;
  - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
  - (E) a minimum passing score set by the Board for each subject area tested;
  - (F) an annual review of the examination and its technical manual by the Board and a psychometrician selected by the Board;
  - (G) a task analysis performed once every four years which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination are scored;
  - (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
  - (I) a system of applicant assessment which utilizes raters of applicant performance who are not full time employees of any dental academic institution.
- (e) The Board shall accept scores upon such examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.
- (f) The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.
- (g) The Board shall specify the times, places and agencies which will conduct Board approved licensure examinations in the state.

*History Note:* Authority G.S. 90-30; 90-48;  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. June 1, 2009; March 1, 2006; August 1, 1998; March 1, 1988.

- 21 NCAC 16B .0304 OTHER REQUIREMENTS**
- 21 NCAC 16B .0305 TIME FOR FILING**
- 21 NCAC 16B .0306 FOREIGN GRADUATES**
- 21 NCAC 16B .0307 EXAMINATIONS**
- 21 NCAC 16B .0308 PATIENTS AND SUPPLIES FOR CLINICAL EXAM**
- 21 NCAC 16B .0309 SCOPE OF CLINICAL EXAMINATION**

*History Note:* Authority G.S. 90-28; 90-30; 90-41; 90-48;  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. August 1, 2002 August 1, 1998; January 1, 1994; May 1, 1991; May 1, 1989; March 1, 1988; October 1, 1986; January 1, 1983;  
 Temporary Amendment Eff. January 1, 2003;  
 Amended Eff. January 1, 2004; April 1, 2003;  
 Repealed Eff. March 1, 2006.

- 21 NCAC 16B .0310 CLINICAL OPERATIVE DENTISTRY**
- 21 NCAC 16B .0311 ORAL SURGERY: RADIOGRAPHS: INTERPRETATION AND DIAGNOSIS**
- 21 NCAC 16B .0312 REMOVABLE PROSTHODONTICS**
- 21 NCAC 16B .0313 PERIODONTICS**

*History Note:* Authority G.S. 90-28; 90-30; 90-48;  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. January 1, 1983;

*Repealed Eff. October 1, 1986.*

**21 NCAC 16B .0314      SIMULATED CLINICAL PROCEDURES**

*History Note:      Authority G.S. 90-28; 90-30; 90-48;  
                         Eff. January 1, 1983;  
                         Repealed Eff. October 1, 1986.*

**21 NCAC 16B .0315      REEXAMINATION**

*History Note:      Authority G.S. 90-28; 90-30; 90-48;  
                         Eff. January 1, 1983;  
                         Amended Eff. April 1, 2003; August 1, 2002; May 1, 1991; May 1, 1989; October 1, 1986;  
                         Repealed Eff. March 1, 2006.*

**21 NCAC 16B .0316      ORAL EXAMINATION: INSTRUCTORS**

*History Note:      Authority G.S. 90-28; 90-30; 90-48;  
                         Eff. October 1, 1986;  
                         Repealed Eff. May 1, 1989.*

**21 NCAC 16B .0317      REEXAMINATION**

(a) Any applicant who has failed the clinical portion of a Board approved examination three times, regardless of having passed the written portion of the examination, shall successfully complete a Board approved course of study in clinical dentistry encompassing at least one academic year. The course of study shall be in the area(s) of deficiency exhibited on the examination and shall provide additional experience and expertise in clinical dentistry for the applicant. The applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.

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

(c) Any applicant who has failed the written portion of the examination may retake the written portion of the examination two additional times during the 12 month period from the date of the initial examination. The applicant must wait a minimum of 72 hours before attempting to retake a written examination.

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

*History Note:      Authority G.S. 90-28; 90-30; 90-48;  
                         Eff. November 1, 2008.*

## **SECTION .0400 – LICENSURE BY BOARD CONDUCTED EXAMINATION**

### **21 NCAC 16B .0401 APPLICATION FOR BOARD CONDUCTED EXAMINATION**

- (a) All applications for Board conducted examination are to be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required by said Board relative to the applicant. Any candidate who changes his address shall immediately notify the Board office.
- (b) The fee for each examination or re-examination must accompany the application. Such fee is non-refundable.
- (c) Two identical photographs of the applicant, taken within six months prior to the date of the application, not over two inches in height, must be submitted. One photograph must be affixed to the application and the second photograph must be paper-clipped to the application to be used as part of the identification badge.

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

### **21 NCAC 16B .0402 TIME FOR FILING**

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

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

### **21 NCAC 16B .0403 EXAMINATION CONDUCTED BY THE BOARD**

- (a) Written instructions designating the subject areas to be covered will be made available to candidates prior to the date fixed for each examination.
- (b) Each candidate will be given a numbered badge. This badge will contain the candidate's photograph and will be presented to the candidate prior to the examination. The number on the badge will be the only identification allowed on any paper or manuscript during this examination. This badge must be returned to the Board at the completion of the examination.
- (c) The Board reserves the right to dismiss any candidate who may be detected using or attempting to use any assistance not provided as an accommodation. If such violation is discovered by the Board after a license has been issued to the violator, the license shall be revoked.

*History Note:* Authority G.S. 90-28; 90-30; 90-48;  
Eff. March 1, 2006.

### **21 NCAC 16B .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION**

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

*History Note:* Authority G.S. 90-28; 90-30; 90-48;  
Eff. March 1, 2006.

### **21 NCAC 16B .0405 SCOPE OF BOARD CONDUCTED CLINICAL EXAMINATION**

- (a) The Board conducted clinical examination may cover such of the following subject areas as the Board may designate:
- (1) Clinical operative dentistry;
  - (2) Oral surgery, radiography, radiographic interpretation and oral diagnosis;
  - (3) Fixed and removable prosthodontics;
  - (4) Periodontics;
  - (5) Simulated clinical procedures;

- (6) Endodontics.
- (b) Each graded procedure will be examined separately by at least three examiners.
- (c) The clinical examination will begin and end promptly as designated.

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. March 1, 2006.*

**21 NCAC 16B .0406 BOARD CONDUCTED REEXAMINATION**

- (a) A complete application is required in case of reexamination. For purposes of this Rule:
  - (1) any person who has taken the clinical portion of the Board conducted clinical examination one time without passing, is considered to have failed the clinical portion of the examination; and
  - (2) any person who has taken the written portion of the Board conducted written examination three times without passing, is considered to have failed the written portion of the examination.
- (b) Any applicant who has failed the clinical portion of the examination three times, regardless of having passed the written portion of the examination, shall successfully complete an additional course of study in clinical dentistry encompassing at least one academic year, such course of study as determined by the Board shall be in the area or areas of deficiency exhibited on the examination and shall provide additional experience and expertise in clinical dentistry for the applicant. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.
- (c) Any applicant who has not passed the written portion of the examination may retake the written portion of the examination two additional times during the twelve month period from the date of the initial examination. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination as defined in Paragraph (a), shall successfully complete an additional course of study, such course of study as determined by the Board shall be in the area or areas of deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.
- (d) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the examination need not retake the written portion of the examination upon subsequent reexamination during one calendar year.

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. April 1, 2006.*

## SECTION .0500 – LICENSURE BY CREDENTIALS

### 21 NCAC 16B .0501 DENTAL LICENSURE BY CREDENTIALS

- (a) An applicant for a dental license by credentials shall submit to the Board:
- (1) a completed, notarized application form provided by the Board;
  - (2) the licensure by credentials fee;
  - (3) an affidavit from the applicant stating for the five years immediately preceding the application:
    - (A) the dates that and locations where the applicant has practiced dentistry;
    - (B) that the applicant has provided at least 5000 hours of clinical care directly to patients, not including post graduate training, residency programs or an internship and
    - (C) that the applicant has continuously held an active, unrestricted dental license issued by another U.S. state or any U.S. territory;
  - (4) if applicable, a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;
  - (5) if applicable, a statement disclosing and explaining periods, within the last 10 years, of observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program;
  - (6) a copy of an unexpired course completion certification card in cardiopulmonary resuscitation; and
  - (7) a statement disclosing whether or not the applicant holds or has ever held a registration with the federal Drug Enforcement Administration (DEA) and whether such registration has ever been surrendered, surrendered for cause, or revoked.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:
- (1) official transcripts from the applicant's dental school verifying that the applicant has graduated from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
  - (2) if the applicant is or has ever been employed as a dentist by or under contract with a federal agency, a letter certifying the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;
  - (3) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and complete information regarding any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
  - (4) a report from the National Practitioner Databank;
  - (5) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
  - (6) a score certification letter from a dental professional regulatory board or regional testing agency of a passing score on a clinical licensure examination substantially equivalent to the clinical licensure examination required in North Carolina and such examination shall be administered by the dental professional regulatory board or its designated agent other than an educational institution. The score certification letter shall:
    - (A) state that the examination included procedures performed on human subjects as part of the assessment of restorative clinical competencies and included evaluations in at least four of the following subject areas:
      - (i) periodontics, clinical abilities testing;
      - (ii) endodontics, clinical abilities testing;
      - (iii) amalgam preparation and restoration;
      - (iv) anterior composite preparation and restoration;
      - (v) posterior ceramic or composite preparation and restoration;
      - (vi) cast gold, clinical abilities testing;

- (vii) prosthetics, written or clinical abilities testing;
      - (viii) oral diagnosis, written or clinical abilities testing; or
      - (ix) oral surgery, written or clinical abilities testing.
    - (B) state that licensure examinations after January 1, 1998 included:
      - (i) anonymity between candidates and examination raters;
      - (ii) standardization and calibration of raters; and
      - (iii) a mechanism for post exam analysis;
  - (7) the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations; and
  - (8) the applicant's passing score on the licensure examination in general dentistry conducted by a regional testing agency or independent state licensure examination substantially equivalent to the clinical licensure examination required in North Carolina as set out in Subparagraph (b)(6) of this Rule.
- (c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. If all of the information is not received as a complete package, the application shall be returned to the applicant.
- (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application.
- (e) An applicant for dental licensure by credentials must successfully complete written examinations as set out in G.S. 90-36 and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails any of the examinations, the applicant may retake the examination failed two additional times during a one year period.
- (f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required.
- (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

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

## SECTION .0600 – LIMITED VOLUNTEER DENTAL LICENSE

### 21 NCAC 16B .0601 LIMITED VOLUNTEER DENTAL LICENSE

- (a) An applicant for a limited volunteer dental license shall submit to the Board:
- (1) a completed, notarized application form provided by the Board;
  - (2) the limited volunteer dental licensure fee;
  - (3) an affidavit from the applicant stating:
    - (A) for the five years immediately preceding application, the dates that and locations where the applicant has practiced dentistry;
    - (B) that the applicant has provided at least 1000 hours per year of clinical care directly to patients, for a minimum of five years, not including post graduate training, residency programs or an internship; and
    - (C) that the applicant has provided at least 500 hours of clinical care directly to patients within the last five years, not including post graduate training, residency programs or an internship;
  - (4) if applicable, a statement disclosing and explaining periods, within the last 10 years, of observation, assessment, or treatment for substance abuse, with verification from the applicable program demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program; and
  - (5) a copy of a current course completion certification card in cardiopulmonary resuscitation.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a limited volunteer dental license shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:
- (1) documentation of graduation from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
  - (2) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and, if applicable, of the applicant's authorization to treat veterans or personnel enlisted in the United States armed services, and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
  - (3) a report from the National Practitioner Databank;
  - (4) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
  - (5) the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations; and
  - (6) the applicant's passing score on a licensure examination in general dentistry substantially equivalent to the clinical licensure examination required in North Carolina, conducted by a regional testing agency or a state licensing board.
- (c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. If all of the information is not received as a complete package, the application shall be returned to the applicant.
- (d) All applicants shall submit to the Board 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.
- (e) An applicant for limited volunteer dental license must successfully complete written examinations as set out in G.S. 90-37.1 and, if deemed necessary by the Board based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails any of the examinations, the applicant may retake the examination failed two additional times during a one year period.
- (f) Should the applicant reapply for a limited volunteer dental license, an additional limited volunteer dental license fee shall be required.
- (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

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

*History Note:* Authority G.S. 90-28; 90-37.1;  
Temporary Adoption Eff. January 1, 2003;  
Eff. January 1, 2004;  
Recodified from 21 NCAC 16B .0501 Eff. March 1, 2006.

## SECTION .0700 – INSTRUCTOR'S LICENSE

### 21 NCAC 16B .0701 INSTRUCTOR'S LICENSE

- (a) An applicant for an instructor's license shall submit to the Board:
- (1) a completed, notarized application form provided by the Board;
  - (2) the instructor's licensure fee;
  - (3) if applicable, a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges; and
  - (4) if applicable, a statement disclosing and explaining periods, within the last ten years, of observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an instructor's license shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:
- (1) if the applicant is or has ever been employed as a dentist by or under contract with an agency or organization, a certification letter of the applicant's current status and disciplinary history from each agency or organization where the applicant is or has been employed or under contract;
  - (2) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
  - (3) a report from the National Practitioner Databank or its international equivalent, if applicable;
  - (4) a report of any pending or final malpractice actions against the applicant, verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and
  - (5) certification letter from the dean or director that the applicant has met or been approved under the credentialing standards of a dental school or an academic medical center with which the person is to be affiliated, and certification that such school or medical center is accredited by the American Dental Association's Commission on Accreditation or the Joint Commission on Accreditation of Health Care Organizations.
- (c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. If all of the information is not received as a complete package, the application shall be returned to the applicant.
- (d) All applicants shall submit to the Board 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.
- (e) Should the applicant reapply for an instructor's license, an additional instructor's license fee shall be required.
- (f) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.
- (g) The license shall be renewed on an annual basis.

*History Note:* Authority G.S. 90-28; 90-29.5;  
Temporary Adoption Eff. January 1, 2003;  
Eff. January 1, 2004;  
Recodified from 21 NCAC 16B .0601 Eff. March 1, 2006.

## SECTION .0800 – SPECIAL RESTRICTED LICENSES

### 21 NCAC 16B .0801 TEMPORARY VOLUNTEER DENTAL PERMIT

- (a) An applicant for a Temporary Volunteer Dental License shall submit to the Board:
- (1) A completed, notarized application form provided by the Board;
  - (2) A statement from all jurisdictions in which the applicant is now or has ever been licensed, disclosing the applicant's disciplinary history and current status of the applicant's license;
  - (3) A statement signed by a N.C. licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, stating where, within the next calendar year, such supervision or direction will occur, and affirming that no fee or monetary compensation of any kind will be paid to the applicant for dental services performed; and
  - (4) A statement signed by the applicant stating where the applicant will practice, the type of facility where the practice will occur, the duration of the practice, the name of the supervising dentist, and affirming that no fee will be charged or accepted. The applicant must update the information within five days of any changes in the practice location or facility.
- (b) All information required must be completed and received in the Board office as a complete package at least two weeks prior to the issuance of the license. If all required information is not received, the application shall be returned to the applicant. The applicant must report any changes to submitted information within five days of when the applicant knew or should have known of the changes.
- (c) To renew the Temporary Volunteer Dental License the licensee must:
- (1) Submit an affidavit stating that all information on the original application is correct and requires no update or correction;
  - (2) A certificate of licensure from all jurisdictions in which the applicant is currently licensed certifying that the applicant holds a valid unrestricted license to practice general dentistry, is currently in good standing, and has never been disciplined;
  - (3) A statement signed by a NC licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, where, within the next calendar year, such supervision or direction is to occur, and affirming that no fee or monetary compensation of any kind will be paid to the licensee for dental services performed; and
  - (4) A statement signed by the applicant stating where the applicant will practice, the type of facility where the practice will occur, the duration of the practice, the name of the supervising dentist, and affirming that no fee will be charged or accepted. The applicant must update the information within five days of any changes in the practice location or facility.
- (d) All required information must be completed and received in the Board office as a complete package at least two weeks prior to the renewal of the license. If all required information is not received, the renewal application shall be returned to the applicant. The licensee must report any changes to submitted information within five days of when the licensee knew or should have known of the changes.

*History Note: Authority G.S. 90-29; 90-37.1;  
Eff. February 1, 2008.*

## **SECTION .0900 – EXEMPTIONS FOR ACTIVE MILITARY**

### **21 NCAC 16B .0901      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. April 1, 2010.*

### **21 NCAC 16B .0902      EXEMPTIONS GRANTED**

- (a) Eligible licensees are granted a waiver of their mandatory continuing education requirements.
- (b) Eligible licensees are granted an extension period 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; 93B-15;*  
                          *Eff. April 1, 2010.*

## **SUBCHAPTER 16C - LICENSURE DENTAL HYGIENISTS**

### **SECTION .0100 - GENERAL PROVISIONS**

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

Before beginning the practice of dental hygiene in North Carolina, each applicant shall procure from the Board a license to practice dental hygiene. In order to receive such a license, each applicant shall pass written and clinical examinations as set out in this Subchapter.

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. June 1, 2006; May 1, 1989; January 1, 1983.

#### **21 NCAC 16C .0102 NO RECIPROCAL ARRANGEMENT**

The Board does not grant any licenses by reciprocity.

*History Note:* Authority G.S. 90-223; 90-224; 90-226;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

## **SECTION .0200 - QUALIFICATIONS**

### **21 NCAC 16C .0201 IN GENERAL**

*History Note:* Authority G.S. 90-28; 90-48; 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Repealed Eff. May 1, 1989.

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

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

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. June 1, 2006; May 1, 1989.

### **21 NCAC 16C .0203 TRANSCRIPTS REQUIRED**

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 2003; January 1, 1994; May 1, 1989;  
Repealed Eff. June 1, 2006.

## SECTION .0300 - APPLICATION

### 21 NCAC 16C .0301 APPLICATION FOR LICENSURE

- (a) All applications for licensure shall be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required relative to the applicant. Any applicant who changes his address shall notify the Board office. Applicants shall arrange for and ensure submission to the Board office, sealed proof of graduation from the school, as required by G.S. 90-224(a).
- (b) The application fee shall accompany the application. Such fee is nonrefundable.
- (c) Applicants who are licensed in other states shall furnish verification of licensure from the secretary of the board of each state in which they are licensed. A photograph of the applicant, taken within six months prior to the date of the application, must be affixed to the application.
- (d) All applicants shall submit to the Board 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.
- (e) All applicants shall arrange for and ensure the submission to the Board office, the examination scores as required by 16C .0303(a) of this Subchapter. All applicants shall arrange for and ensure the submission to the Board office, the examination scores as required by 16C .0303(c), if applicable.

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. June 1, 2006; May 1, 1989.

### 21 NCAC 16C .0302 CONSENT FOR BOARD INVESTIGATION

In making application, the applicant authorizes the Board to verify the information contained in the application or to seek such further information pertinent to the applicant's qualifications or character as the Board may deem proper. The applicant consents that his or her character and reputation may be inquired into, and waives any right he or she may have to recover damages against the Board, any member thereof, or its agents, or from any person who answers a Board inquiry in good faith without malicious intent.

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

- (a) All applicants for dental hygiene licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16C .0405.
- (b) All applicants for dental hygiene licensure shall achieve passing scores on written and clinical examinations administered by the board or Board approved testing agencies according to this Rule.
- (c) Clinical testing agencies must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.
- (d) The clinical examination shall:
- (1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;
  - (2) include procedures performed on human subjects as part of the assessment of clinical competency;
  - (3) include probing, supra and subgingival scaling and soft tissue management;
  - (4) provide the following:
    - (A) anonymity between applicants and examination raters;
    - (B) standardization and calibration of raters;
    - (C) a mechanism for post exam analysis;
    - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
    - (E) a minimum passing score set by the Board for each subject area tested;

- (F) an annual review of the examination and its technical manual by the Board and a psychometrician selected by the Board;
- (G) a task analysis performed once every four years which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination are scored;
- (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
- (I) a system of applicant assessment which utilizes raters of applicant performance who are not full time employees of any dental academic institution.

(d) The Board shall accept scores upon approved examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure that the applicant's scores are submitted to the Board office. The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

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

*History Note:* Authority G.S. 90-224;  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988.

<b>21 NCAC 16C .0304</b>	<b>OTHER REQUIREMENTS</b>
<b>21 NCAC 16C .0305</b>	<b>TIME FOR FILING</b>
<b>21 NCAC 16C .0306</b>	<b>EXAMINATIONS</b>
<b>21 NCAC 16C .0307</b>	<b>CLINICAL EXAMINATION</b>
<b>21 NCAC 16C .0308</b>	<b>SUPPLIES</b>
<b>21 NCAC 16C .0309</b>	<b>PATIENT</b>
<b>21 NCAC 16C .0310</b>	<b>REEXAMINATION</b>

*History Note:* Authority G.S. 90-223; 90-224; 90-229;  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. August 1, 2002; January 1, 1994; May 1, 1991; May 1, 1989; March 1, 1988;  
 October 1, 1986; January 1, 1983;  
 Temporary Amendment Eff. January 1, 2003;  
 Amended Eff. January 1, 2004; April 1, 2003;  
 Repealed Eff. June 1, 2006.

## **SECTION .0400 – LICENSURE BY EXAMINATION CONDUCTED BY THE BOARD**

### **21 NCAC 16C .0401 APPLICATION FOR EXAMINATION CONDUCTED BY THE BOARD**

- (a) All applications for licensure examination conducted by the Board shall be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required by these Rules relative to the applicant. Any candidate who changes his address shall notify the Board office.
- (b) The fee for such examination or re-examination must accompany the application. Such fee is non-refundable.
- (c) Two identical photographs of the applicant, taken within six months prior to the date of the application, not over two inches in height, must be submitted. One photograph must be affixed to the application and the second photograph must be paper-clipped to the application to be used as part of the identification badge.

*History Note:* Authority G.S. 90-223; 90-224.1;  
Eff. June 1, 2006.

### **21 NCAC 16C .0402 TIME FOR FILING**

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

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

### **21 NCAC 16C .0403 EXAMINATION CONDUCTED BY THE BOARD**

- (a) Each candidate shall be given a numbered badge. This badge shall contain the candidate's photograph and shall be presented to the candidate prior to the examination. The number on the badge shall be the only identification allowed on any paper or manuscript during this examination. The badge must be returned to the Board at the completion of the examination.
- (b) The Board may dismiss any candidate who is using or appears to be using any assistance not provided as an accommodation. If such violation is discovered by the Board after a license has been issued to the violator, the license shall be revoked.

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. June 1, 2006.

### **21 NCAC 16C .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION**

- (a) Each candidate must furnish his own patients and instruments for the Board conducted clinical examination.
- (b) Supplies necessary for all clinical work are to be provided by the candidate.

*History Note:* Authority G.S. 90-223; 90-224;  
Eff. June 1, 2006.

### **21 NCAC 16C .0405 BOARD CONDUCTED REEXAMINATION**

- (a) A complete application, except for official proof of graduation as required by G.S. 90-224(a) and National Board score, is required in case of reexamination.
- (b) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the examination conducted by the Board must also re-take the written examination unless the applicant successfully passes the clinical examination within one year of passing the written examination.
- (c) Any applicant who has passed the clinical portion of the examination conducted by the Board but has failed the written portion of the examination may retake the written portion of the examination two additional times during a one year period and need not retake the clinical portion of the examination. If the applicant does not pass the written portion of the examination upon the second reexamination, the applicant must retake both the written and clinical portions of the examination upon subsequent reexamination.

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

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

## SECTION .0500 – LICENSURE BY CREDENTIALS

### 21 NCAC 16C .0501 DENTAL HYGIENE LICENSURE BY CREDENTIALS

- (a) An applicant for a dental hygiene license by credentials shall submit to the Board:
- (1) a completed, notarized application form provided by the Board;
  - (2) the licensure by credentials fee;
  - (3) an affidavit from the applicant stating for the two years immediately preceding the application:
    - (A) the dates that and locations where the applicant has practiced dental hygiene;
    - (B) that the applicant has provided at least 2000 hours of clinical care directly to patients; and
    - (C) that the applicant has continuously held an active, unrestricted dental hygiene license issued by another U.S. state or any U.S. territory.
  - (4) a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;
  - (5) if applicable, a statement disclosing and explaining periods, within the last 10 years, of observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dental hygiene or other impaired professionals program; and
  - (6) a copy of an unexpired course completion certification card in cardiopulmonary resuscitation.
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental hygiene license by credentials shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:
- (1) official transcripts certifying that the applicant has graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association;
  - (2) if the applicant is or has ever been employed as a dentist or dental hygienist by or under contract with a federal agency, a certification letter of the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;
  - (3) certificate of the applicant's licensure status from the regulatory authority or other occupational or professional regulatory authority and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene license or other occupational or professional license;
  - (4) a report from the National Practitioner Databank, if reporting is required or allowed by federal law;
  - (5) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
  - (6) the applicant's passing score on the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations; and
  - (7) the applicant's passing score on the licensure examination conducted by a regional testing agency or independent state licensure examination that is substantially equivalent to the clinical licensure examination required in North Carolina.
- (c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. If all of the information is not received as a complete package, the application shall be returned to the applicant.
- (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application.
- (e) An applicant for dental hygiene licensure by credentials must successfully complete written examinations and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails any of the examinations, the applicant may retake the examination failed two additional times during a one year period.
- (f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required.
- (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

*History Note:* Authority G.S. 90-223; 90-224.1;  
Temporary Adoption Eff. January 1, 2003;

*Eff. January 1, 2004;*  
*Recodified from Rule .0401 Eff. June 1, 2006;*  
*Amended Eff. February 1, 2010.*

## SUBCHAPTER 16D - PROVISIONAL LICENSURE: DENTISTS

### SECTION .0100 - GENERAL PROVISIONS

#### 21 NCAC 16D .0101 ELIGIBILITY REQUIREMENTS

(a) Persons shall be eligible for provisional licensure under the provisions of G.S. 90-29.3 if they have been licensed to practice dentistry in another jurisdiction for a period of at least two years immediately preceding the date of application for provisional licensure.

(b) An applicant for provisional licensure must present to the Board documentary evidence satisfactory to the Board that he is in good standing with the dental licensing agencies of all jurisdictions wherein he is currently licensed to practice dentistry.

(c) No person shall be eligible for provisional licensure who has been censured, disciplined, or punished by any dental licensing agency or dental organization for violation of professional ethics or the laws of any jurisdiction.

*History Note:* Authority G.S. 90-28; 90-29.3; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. January 1, 1994; June 1, 1991; May 1, 1989.

#### 21 NCAC 16D .0102 RESTRICTIONS ON PRACTICE

(a) Any provisional license issued to a member of the faculty of an educational institution shall limit the practice of such provisional licensee to the confines of the facilities provided by the educational institution of which he is a faculty member.

(b) The dental practice of a provisional licensee shall be restricted to a specific facility or, to a geographic location, or to a specialized field of dentistry, or any combination thereof. Direction by a dentist licensed in North Carolina shall also be required. Such dentist shall provide direction over the functions performed by the licensee and shall be responsible for all consequences or results arising from the licensee's practice of dentistry.

(c) For purposes of this Section, the acts of a provisional licensee 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.

*History Note:* Authority G.S. 90-29.3;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2002; January 1, 1994; May 1, 1989.

#### 21 NCAC 16D .0103 PATIENT RECORDS

A provisional licensee may, during the period of his provisional licensure, be required to furnish to the Board records of patients treated by him.

*History Note:* Authority G.S. 90-29.3;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977.

#### 21 NCAC 16D .0104 APPLICATION

(a) All applications for provisional licensure shall be submitted upon forms provided by the Board, and all information requested shall be provided.

(b) All applicants shall submit to the Board 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.

*History Note:* Authority G.S. 90-29.3; 90-41(a);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Temporary Amendment Eff. January 1, 2003;  
Amended Eff. January 1, 2004.

**21 NCAC 16D .0105 EXAMINATION**

As a condition precedent to issuing a provisional license, the Board may require an applicant to appear before the Board for oral examination, written examination(s), clinical evaluation or any combination thereof and satisfy the Board as to the applicant's professional competency.

*History Note: Authority G.S. 90-29.3;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2002.*



## **SUBCHAPTER 16E - PROVISIONAL LICENSURE: DENTAL HYGIENIST**

### **21 NCAC 16E .0101 ELIGIBILITY REQUIREMENTS**

*History Note:* Authority G.S. 90-226;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989;  
RRC Objection November 21, 2002 and rule was returned to agency on February 20, 2003.

### **21 NCAC 16E .0102 RESTRICTIONS ON PRACTICE**

- (a) Any provisional license issued to a member of the faculty of an educational institution shall limit the practice of such provisional licensee to the confines of facilities provided by the educational institution of which he is a faculty member.
- (b) In those instances in which the Board deems such restriction appropriate, the dental hygiene practice of a provisional licensee may be restricted to a geographical location.

*History Note:* Authority G.S. 90-226;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

### **21 NCAC 16E .0103 APPLICATION**

- (a) All applications for provisional licensure shall be submitted upon forms provided by the Board and all information requested shall be provided.
- (b) All applicants shall submit to the Board 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.

*History Note:* Authority G.S. 90-226; 90-229(a);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989;  
Temporary Amendment Eff. January 1, 2003;  
Amended Eff. January 1, 2004.

### **21 NCAC 16E .0104 EXAMINATION**

As a condition precedent to issuing a provisional license, the Board may require an applicant to appear before the Board for oral examination, written examination(s), clinical evaluation or any combination thereof and satisfy the Board as to the applicant's professional competency.

*History Note:* Authority G.S. 90-226;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2002; May 1, 1989.

## SUBCHAPTER 16F - PROFESSIONAL CORPORATIONS

### SECTION .0100 - SCOPE

#### 21 NCAC 16F .0101 CERTIFICATION OF LICENSURE REQUIRED

*History Note:* Authority G.S. 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Repealed Eff. May 1, 1989.

#### 21 NCAC 16F .0102 APPLICATION

Applications for certification that all proposed owners of stock in a professional corporation or all managers and members of a professional limited liability company are licensed to practice dentistry shall be submitted by letter to the Board's office requesting such certification, and setting forth the following information:

- (1) The proposed name of the corporation or professional limited liability company;
- (2) The names of all proposed owners of the shares of stock to be issued by the corporation, or all members and managers of the professional limited liability company together with their addresses and current dental license numbers; and
- (3) The name or names of the proposed incorporators or the members who executed the articles of organization of the professional limited liability company, their addresses, and the current dental license numbers of such of them as are duly licensed to practice dentistry in the State of North Carolina.

*History Note:* Authority G.S. 55B-4(4); 57C-2-01; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 1994; May 1, 1989.

#### 21 NCAC 16F .0103 CORPORATE OR LIMITED LIABILITY COMPANY NAME

Corporation or limited liability company designations shall consist only of the use of the words "Professional Association," "P.A.," "Professional Corporation," or "P.C." for professional corporations and "Professional Limited Liability Company", or "P.L.L.C." for professional limited liability companies.

All names shall also contain only the name or surname of one or more of the shareholders or members and may include the words:

- (1) "Associate(s);" "D.D.S.;" "D.M.D.;" and
- (2) the geographic location of the company.

The company name may not be false, deceptive or misleading.

*History Note:* Authority G.S. 55B-5; 57C-2-01; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 2011; August 1, 2009; August 1, 2002; April 1, 1994; May 1, 1989.

#### 21 NCAC 16F .0104 CERTIFICATE OF REGISTRATION

(a) Application for a certificate of registration shall be made in writing to the Board, and shall be submitted upon the form provided by the Board for that purpose. The application shall be accompanied by a certified copy of the certificate of incorporation and articles of incorporation of a P.A. or P.C. or a certified copy of the articles of organization of a P.L.L.C., together with a check in the amount of fifty dollars (\$50.00) in payment of the registration fee.

(b) The initial certificate of registration shall remain effective for one year from the date of issuance thereof, unless suspended or terminated as by law provided, and each subsequent renewal of the certificate shall be effective for a period of one year from the date of issue.

*History Note:* Authority G.S. 55B-10; 57C-2-01; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;

*Amended Eff. August 1, 2009; April 1, 1994; May 1, 1989.*

**21 NCAC 16F .0105 APPLICATION FOR RENEWAL**

At least 20 days prior to the date of expiration of the certificate, the corporation or limited liability company shall submit its written application for renewal upon a form to be provided by the Board. The application must be accompanied by a check in the amount of twenty-five dollars (\$25.00) in payment of the renewal fee.

*History Note: Authority G.S. 55B-11; 57C-2-01; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 1994; May 1, 1989.*

**21 NCAC 16F .0106 TRANSFER OF STOCK**

*History Note: Authority G.S. 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Repealed Eff. May 1, 1989.*

**21 NCAC 16F .0107 AMENDMENTS TO ARTICLES OF INCORPORATION OR ORGANIZATION**

Amendments to the articles of incorporation or articles of organization shall be forwarded to the Board's office within 10 days after the filing of the same in the office of the Secretary of State of North Carolina.

*History Note: Authority G.S. 55B-12; 57C-2-01; 57C-2-22; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 1994; May 1, 1989.*

**21 NCAC 16F .0108 EMPLOYMENT OF DENTAL HYGIENIST**

No corporation or limited liability company shall, at one and the same time, employ in clinical positions more than two dental hygienists for each dentist actively engaged in the practice of dentistry.

*History Note: Authority G.S. 90-223(b); 90-233(b);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 1994; January 1, 1983.*

**21 NCAC 16F .0109 RULES AND REGULATIONS OF THE BOARD APPLY**

*History Note: Authority G.S. 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Repealed Eff. May 1, 1989.*

**21 NCAC 16F .0110 CORPORATE OFFICERS OR MANAGERS MUST EXECUTE DOCUMENTS**

All documents required by these Rules to be submitted to the Board by the corporation or limited liability company shall be executed by the president or vice president of the corporation and attested to by the secretary/treasurer or by the managers of the limited liability company, and duly acknowledged before a notary public or some other officer qualified to administer oaths.

*History Note: Authority G.S. 55B-12; 57C-2-01; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 1994; May 1, 1989.*

## SUBCHAPTER 16G – DENTAL HYGIENISTS

### SECTION .0100 – DENTAL HYGIENISTS

#### 21 NCAC 16G .0101 FUNCTIONS WHICH MAY BE DELEGATED

A dental hygienist may be delegated appropriate functions to be performed under the direct control and supervision of a dentist who shall be personally and professionally responsible and liable for any and all consequences or results arising from performance of such acts and functions. In addition to the functions set out in G.S. 90-221(a) and 21 NCAC 16H .0201, functions which may be delegated to a dental hygienist include:

- (1) Taking impressions for study models and opposing casts which will not be used for construction of permanent dental appliances, but which may be used for the fabrication of adjustable orthodontic appliances, nightguards and the repair of dentures or partials;
- (2) Applying sealants to teeth that do not require mechanical alteration prior to the application of such sealants, provided that a dentist has examined the patient and prescribed the procedure;
- (3) Inserting matrix bands and wedges;
- (4) Placing cavity bases and liners;
- (5) Placing and/or removing rubber dams;
- (6) Cementing temporary restorations using temporary cement;
- (7) Applying acid etch materials/rinses;
- (8) Applying bonding agents;
- (9) Removing periodontal dressings;
- (10) Removing sutures;
- (11) Placing gingival retraction cord;
- (12) Removing excess cement;
- (13) Flushing, drying and temporarily closing root canals;
- (14) Placing and removing temporary restorations;
- (15) Placing and tying in or untying and removing orthodontic arch wires;
- (16) Inserting interdental spacers;
- (17) Fitting (sizing) orthodontic bands or brackets;
- (18) Applying dentin desensitizing solutions;
- (19) Performing periodontal screening;
- (20) Performing periodontal probing;
- (21) Performing subgingival exploration for or removal of hard or soft deposits;
- (22) Performing sulcular irrigation;
- (23) Applying sulcular antimicrobial or antibiotic agents which are resorbable;
- (24) Performing extra-oral adjustments which affect function, fit, or occlusion of any temporary restoration or appliance; and
- (25) Initially forming and sizing orthodontic arch wires and place arch wires after final adjustment and approval by the dentist.

*History Note:* Authority G.S. 90-221; 90-223(b);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2008; August 1, 2000; May 1, 1989; October 1, 1985; March 1, 1985.

#### 21 NCAC 16G .0102 FUNCTIONS WHICH SHALL NOT BE DELEGATED

*History Note:* Authority G.S. 90-221(a); 90-223(b);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.  
Repealed Eff. August 1, 2000.

#### 21 NCAC 16G .0103 PROCEDURES PROHIBITED

Those procedures which require the professional education and skill of a dentist and may not be delegated to a dental hygienist shall include, but shall not be limited to:

- (1) Comprehensive examination, diagnosis and treatment planning;

- (2) Surgical or cutting procedures on hard or soft tissues, including laser, air abrasion or micro-abrasion procedures;
- (3) Placement or removal of therapeutic sulcular nonresorbable agents;
- (4) The issuance of prescription drugs, medications or work authorizations;
- (5) Taking of impressions for final fixed or removable restorations or protheses, except as provided for in Rule .0101(1) of this Subchapter;
- (6) Final placement or intraoral adjustment of a fixed or removable appliance;
- (7) Intraoral occlusal adjustments which affect function, fit, or occlusion of any temporary or permanent restoration or appliance;
- (8) Extra-oral occlusal adjustments which affect function, fit, or occlusion of any permanent restoration or appliance;
- (9) Performance of direct pulp capping or pulpotomy;
- (10) Placement of sutures;
- (11) Final placement or cementation of orthodontic bands or brackets;
- (12) Placement or cementation of final restorations;
- (13) Administration of any anesthetic by any route except the administration of topically-applied agents intended to anesthetize only cutaneous tissue; and
- (14) Intraoral use of a high speed handpiece.

*History Note:* Authority G.S. 90-221(a); 90-223(b);  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. August 1, 2008; August 1, 2000; May 1, 1989; March 1, 1985.

#### **21 NCAC 16G .0104 DEFINITION: DIRECT CONTROL AND SUPERVISION**

*History Note:* Authority G.S. 90-223(b);  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Repealed Eff. January 1, 1983.

#### **21 NCAC 16G .0105 EMPLOYMENT OF DENTAL HYGIENIST**

*History Note:* Authority G.S. 90-28; 90-48; 90-223(b);  
 Eff. September 3, 1976;  
 Readopted Eff. September 26, 1977;  
 Amended Eff. January 1, 1983;  
 Repealed Eff. May 1, 1989.

#### **21 NCAC 16G .0106 DENTAL HYGIENE SCHOOL EXTENSION FACILITIES AND OFF CAMPUS CLASSES**

(a) Dental hygiene schools may operate extension facilities and conduct off-campus hygiene classes in which dental hygiene services are provided to members of the public at Board approved sites, including non-profit health care facilities serving low income populations, state and county institutions with resident populations, hospitals, state or county health department and area health education centers.

(b) Dental hygiene schools which operate extension facilities or conduct hygiene classes off-campus must notify the Dental Board of the location and nature of each facility or off campus course location, the names of the students assigned thereto, and the names and qualifications of all instructors functioning therein.

(c) No student enrolled in an off-campus dental hygiene class or extension facility may receive fees, compensation or remuneration of any kind for providing dental hygiene services in accordance with G.S. 90-29(c)(4) or G.S. 90-233(c)(2).

*History Note:* Authority G.S. 90-29(c)(4); 90-233(c)(2);  
 Eff. November 1, 2009.

## SUBCHAPTER 16H - DENTAL ASSISTANTS

### SECTION .0100 - CLASSIFICATION AND TRAINING

#### **21 NCAC 16H .0101 CLASSIFICATION**

Based upon education, training, and experience, a dental assistant shall be categorized as a Dental Assistant I or a Dental Assistant II.

*History Note: Authority G.S. 90-29(c)(9);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977.*

#### **21 NCAC 16H .0102 DENTAL ASSISTANT I**

A Dental Assistant I is a dental assistant who does not qualify by training and experience for classification as a Dental Assistant II.

*History Note: Authority G.S. 90-29(c)(9);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977.*

#### **21 NCAC 16H .0103 DENTAL ASSISTANT II**

A Dental Assistant II is an expanded duty assistant who has completed training in accordance with Rule .0104 of this Section. Under direct control and supervision, a Dental Assistant II may be delegated intra-oral procedures in accordance with 21 NCAC 16H .0203 the supervising dentist deems appropriate, with the dentist personally and professionally responsible for any and all consequences or results arising from the performance of said acts. All delegated procedures must be reversible in nature.

*History Note: Authority G.S. 90-29(c)(9);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2000.*

#### **21 NCAC 16H .0104 APPROVED EDUCATION AND TRAINING PROGRAMS**

To be classified as a Dental Assistant II, an assistant must meet one of the following criteria:

- (1) successful completion of:
  - (a) an ADA-accredited dental assisting program and current certification in CPR; or
  - (b) one academic year or longer in an ADA-accredited dental hygiene program, and current certification in CPR; or
- (2) successful completion of:
  - (a) full-time employment and experience as a chairside assistant for two years (3,000 hours) of the preceding five, during which period the assistant may be trained in any dental delivery setting and allowed to perform the functions of a Dental Assistant II under the direct control and supervision of a licensed dentist;
  - (b) a 3-hour course in sterilization and infection control;
  - (c) a 3-hour course in dental office emergencies;
  - (d) radiology training consistent with G.S. 90-29(c)(12); and
  - (e) current certification in CPR; or
- (3) successful completion of the certification examination administered by the Dental Assisting National Board, and current certification in CPR.

*History Note: Authority G.S. 90-29(c)(9);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2000; November 1, 1996; January 1, 1994; May 1, 1989; September 1, 1988;  
October 1, 1986.*

## SECTION .0200 – PERMITTED FUNCTIONS OF DENTAL ASSISTANT

### 21 NCAC 16H .0201 GENERAL PERMITTED FUNCTIONS OF DENTAL ASSISTANT I

(a) A Dental Assistant I may assist a dentist as a chairside assistant as long as the acts and functions of the Dental Assistant I do not constitute the practice of dentistry or dental hygiene.

(b) A Dental Assistant I may do and perform only routine dental assisting procedures such as oral hygiene instruction; chairside assisting; application of topical fluorides or topical anesthetics; and exposure of radiographs, provided that the assistant can show evidence of compliance with radiography training consistent with G.S. 90-29(c)(12). However, functions may be delegated to a Dental Assistant I pursuant to 21 NCAC 16H .0104(2)(a).

*History Note:* Authority G.S. 90-29(c)(9); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2000; May 1, 1989.

### 21 NCAC 16H .0202 SPECIFIC PERMITTED FUNCTIONS OF DENTAL ASSISTANT I

*History Note:* Authority G.S. 90-29(c)(9); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. November 1, 1996; May 1, 1989.  
Repealed Eff. August 1, 2000.

### 21 NCAC 16H .0203 PERMITTED FUNCTIONS OF DENTAL ASSISTANT II

(a) A Dental Assistant II may perform all acts or procedures which may be performed by a Dental Assistant I. In addition, a Dental Assistant II may be delegated the following functions to be performed under the direct control and supervision of a dentist who shall be personally and professionally responsible and liable for any and all consequences or results arising from the performance of such acts and functions:

- (1) Take impressions for study models and opposing casts which will not be used for construction of dental appliances, but which may be used for the fabrication of adjustable orthodontic appliances, nightguards and the repair of dentures or partials;
- (2) Apply sealants to teeth that do not require mechanical alteration prior to the application of such sealants, provided a dentist has examined the patient and prescribed the procedure;
- (3) Insert matrix bands and wedges;
- (4) Place cavity bases and liners;
- (5) Place and remove rubber dams;
- (6) Cement temporary restorations using temporary cement;
- (7) Apply acid etch materials/rinses;
- (8) Apply bonding agents;
- (9) Remove periodontal dressings;
- (10) Remove sutures;
- (11) Place gingival retraction cord;
- (12) Remove excess cement;
- (13) Flush, dry and temporarily close root canals;
- (14) Place and remove temporary restorations;
- (15) Place and tie in or untie and remove orthodontic arch wires;
- (16) Insert interdental spacers;
- (17) Fit (size) orthodontic bands or brackets;
- (18) Apply dentin desensitizing solutions;
- (19) Perform extra-oral adjustments which affect function, fit or occlusion of any temporary restoration or appliance;
- (20) Initially form and size orthodontic arch wires and place arch wires after final adjustment and approval by the dentist; and
- (21) Polish the clinical crown using only;
  - (A) a hand-held brush and appropriate polishing agents; or

(B) a combination of a slow speed handpiece (not to exceed 10,000 rpm) with attached rubber cup or bristle brush, and appropriate polishing agents.

(b) A Dental Assistant II must complete a course in coronal polishing consisting of at least seven hours before using a slow speed handpiece with rubber cup or bristle brush attachment. A polishing procedure shall not be represented to the patient as a prophylaxis and no specific charge shall be made for such unless the dentist has performed an evaluation for calculus, deposits, or accretions and a dentist or dental hygienist has removed any substances detected.

*History Note:* Authority G.S. 90-29(c)(9); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2009; September 1, 2008; August 1, 2000; October 1, 1996; January 1, 1994; May 1, 1989; October 1, 1985; March 1, 1985.

#### **21 NCAC 16H .0204 GENERAL PROHIBITED FUNCTIONS OF DENTAL ASSISTANTS I AND II**

*History Note:* Authority G.S. 90-29(c)(9); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.  
Repealed Eff. August 1, 2000.

#### **21 NCAC 16H .0205 SPECIFIC PROHIBITED FUNCTIONS OF DENTAL ASSISTANTS I AND II**

Those specific functions which shall not be delegated to either a Dental Assistant I or a Dental Assistant II include those procedures prohibited in 21 NCAC 16G .0103 for Dental Hygienists. In addition, neither a Dental Assistant I nor a Dental Assistant II shall perform a prophylaxis, or shall perform periodontal screening, periodontal probing, subgingival exploration for or removal of hard or soft deposits, or sulcular irrigation.

*History Note:* Authority G.S. 90-29(c)(9); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2000; January 1, 1994; May 1, 1989; March 1, 1985.

#### **21 NCAC 16H .0206 DIRECT CONTROL AND SUPERVISION DEFINED**

In any instance in which the rules adopted by the Board or any portion of the North Carolina Dental Practice Act shall require or direct that any act or function be performed by a Dental Assistant I or II under the direct control and supervision of a dentist, the term "direct control and supervision of a dentist" means that the dentist must be present in the office when the act or function is being performed and that the dentist must directly and personally supervise, examine, and evaluate the results of any and all acts and functions lawfully done or performed by any person other than the dentist.

*History Note:* Authority G.S. 90-29(c)(9); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

## SUBCHAPTER 16I - ANNUAL RENEWAL OF DENTAL HYGIENIST LICENSE

### SECTION .0100 – ANNUAL RENEWAL

#### 21 NCAC 16I .0101 APPLICATIONS

A renewal application must be received in the Board's office by 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.

*History Note:* Authority G.S. 90-227;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. February 1, 2008; April 1, 2003; August 1, 1998; May 1, 1989.

#### 21 NCAC 16I .0102 CONTINUING EDUCATION REQUIRED

(a) As a condition of license renewal, each dental hygienist must complete a minimum of six clock hours of continuing education each calendar year. Any or all the hours may be acquired through self study courses. For self study courses to be counted towards this continuing education requirement, the hygienist 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.

(b) A dental hygienist who can demonstrate a disabling condition may request a variance in required continuing education hours during a particular period. Written documentation of a disabling condition that interferes with the hygienist's ability to complete the required hours shall be provided to the Board. The Board may grant or deny such requests on a case by case basis according to this standard. In considering the request, the Board may require additional documentation substantiating any specified disability.

*History Note:* Authority G.S. 90-225.1;  
Eff. May 1, 1994;  
Amended Eff. November 1, 2008; April 1, 2001; August 1, 1998.

#### 21 NCAC 16I .0103 APPROVED COURSES AND SPONSORS

(a) Courses in satisfaction of the continuing education requirement must be related to clinical patient care. Hours spent reviewing dental or dental hygiene publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self study courses as described in .0102 of this Subchapter that are offered by a Board approved continuing education sponsor.

(b) Approved continuing education course sponsors include:

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

*History Note:* Authority G.S. 90-225.1;  
Eff. May 1, 1994;  
Amended Eff. November 1, 2008; April 1, 2001; August 1, 1998.

#### 21 NCAC 16I .0104 REPORTING CONTINUING EDUCATION

(a) The number of hours completed to satisfy the continuing education requirement shall be indicated on the renewal application form submitted to the Board and certified by the hygienist. Upon request by the Board or its authorized agent, the hygienist 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.
- (c) Dental hygienists shall receive four hours credit per year for continuing education when engaged in 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 this Rule.

(d) Evidence of service or affiliation with an agency as specified in Paragraph (c) of this Rule 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.

(e) Hygienists 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 two hours credit per year for continuing education.

(f) Hygienists may receive one hour of continuing education credits per year for performing at least five hours of dental hygiene on a volunteer basis at any state, city or county operated site approved by the Dental Board. Credit will not be given for less than five hours of volunteer work.

*History Note: Authority G.S. 90-225.1;  
Eff. May 1, 1994;  
Amended Eff. November 1, 2008; September 1, 2008; June 1, 2008; August 1, 2002; April 1, 2001.*

#### **21 NCAC 16I .0105 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION REQUIREMENT**

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 21 NCAC 16 I .0102 and .0104 of this Subchapter, 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 continuing education hours or a reduction of continuing education hours and fails to provide the required documentation upon request, the Board may refuse to issue a certificate of renewal until such time as the applicant meets the qualifications for 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. 90-225.1;  
Eff. May 1, 1994;  
Amended Eff. February 1, 2008; April 1, 2001.*

#### **21 NCAC 16I .0106 FEE FOR LATE FILING AND DUPLICATE LICENSE**

(a) If the application for a renewal certificate, accompanied by the fee required, is not received in the Board's office before the close of business 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. 90-39; 90-227; 90-232;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989;  
Transferred and Recodified from 21 NCAC 16I .0002 Eff. May 1, 1994;  
Amended Eff. February 1, 2008; April 1, 2003; August 1, 1998.*

**21 NCAC 16I .0107 LICENSE VOID UPON FAILURE TO RENEW**

If an application for a renewal certificate accompanied by the renewal fee, plus the additional late filing fee, is not received in the Board's office before the close of business on March 31 of each year, the license becomes void. Should the license become void due to failure to timely renew, the applicant must apply for reinstatement.

*History Note:* Authority G.S. 90-227;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Transferred and Recodified from 21 NCAC 16I .0003 Eff. May 1, 1994;  
Amended Eff. February 1, 2008; April 1, 2003; August 1, 2002.

**21 NCAC 16I .0108 FORM OF CERTIFICATE**

The certificate of renewal of license shall bear a serial number which need not be the serial number of the original license issued, the full name of the applicant, and the date of issuance.

*History Note:* Authority G.S. 90-222; 90-223; 90-227;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1991;  
Transferred and Recodified from 21 NCAC 16I .0004 Eff. May 1, 1994.

**21 NCAC 16I .0109 CERTIFICATE DISPLAYED**

The license and current certificate of renewal of license shall at all times be displayed in a conspicuous place at the office where the dental hygienist is employed, and whenever requested the license and the current certificate of renewal shall be exhibited to or produced before the North Carolina State Board of Dental Examiners or its authorized agents.

*History Note:* Authority G.S. 90-227;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Transferred and Recodified from 21 NCAC 16I .0005 Eff. May 1, 1994.

**21 NCAC 16I .0110 DEFINITIONS**

The following definitions apply only to this Subchapter:

- (1) "Dental Board" -- the North Carolina State Board of Dental Examiners.
- (2) "Eligible licensees"-- all hygienists 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 hygienist whose license is not suspended or revoked.

*History Note:* Authority G.S. 90-28; 93B-15;  
Eff. April 1, 2010.

**21 NCAC 16I .0111 EXEMPTIONS GRANTED**

- (a) Eligible licensees are granted a waiver of their mandatory continuing education requirements.
- (b) Eligible licensees are granted an extension period 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; 93B-15;  
Eff. April 1, 2010.

## SUBCHAPTER 16J - SANITATION

### 21 NCAC 16J .0101 PREMISES

- (a) The premises of a dental facility shall be kept neat and clean and free of accumulated rubbish and substances of a similar nature which create a public health nuisance.
- (b) The premises shall be kept free of all insects and vermin. Proper methods for their eradication or control shall be utilized.
- (c) Water of a safe, sanitary quality, from a source approved by the health officer, shall be piped under pressure, and in an approved manner, to all equipment and fixtures where the use of water is required.
- (d) All plumbing shall be in accordance with the local plumbing ordinances.
- (e) Comfortable and sanitary conditions for patients and employees shall be maintained constantly.
- (f) All liquid and human waste, including floor wash water, shall be disposed of through trapped drains into a public sanitary sewer system in localities where such system is available. In localities where a public sanitary system is not available, liquid and human waste shall be disposed of in a manner approved by the Environmental Health Section of the Division of Health Services, State Department of Human Resources.
- (g) There shall be adequate toilet facilities on the premises of every dental office. They shall conform to standards of the Environmental Health Section of the Division of Health Services, State Department of Human Resources.

*History Note:* Authority G.S. 90-23; 90-41(a)(23); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16J .0102 HOUSEKEEPING

*History Note:* Authority G.S. 90-23; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Repealed Eff. May 1, 1989.

### 21 NCAC 16J .0103 STERILIZATION

All instruments or equipment used in the treatment of dental patients shall be sterilized according to usage. All dental health care settings shall follow the most current guidelines on infection control for the dental office and the dental laboratory adopted by the American Dental Association. Effective control techniques and precautions to prevent the cross contamination and transmission of infection to all persons is the professional responsibility of all dentists. All licensees are required to maintain and provide a safe, therapeutic environment for patients and employees and to follow a comprehensive and practical infection control program at all times.

*History Note:* Authority G.S. 90-28; 90-41(a)(23); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. February 1, 2008; May 1, 1991.



## SUBCHAPTER 16L - BOARD OF DENTAL ELECTIONS

### **21 NCAC 16L .0101      BALLOTS**

Ballots shall contain the name and practicing address of each nominee.

*History Note:*     *Authority G.S. 90-22;*  
                      *Eff. September 3, 1976;*  
                      *Readopted Eff. September 26, 1977.*

### **21 NCAC 16L .0102      NOTICE TO NOMINEE**

Each nominee shall be notified by the Secretary of the Board of Elections of his nomination before midnight May 20.

*History Note:*     *Authority G.S. 90-22;*  
                      *Eff. September 3, 1976;*  
                      *Readopted Eff. September 26, 1977.*

### **21 NCAC 16L .0103      NOMINATED BOARD MEMBER DISQUALIFIED FROM VOTE**

*History Note:*     *Authority G.S. 90-22;*  
                      *Eff. September 3, 1976;*  
                      *Readopted Eff. September 26, 1977;*  
                      *Repealed Eff. May 1, 1989.*

### **21 NCAC 16L .0104      SOLICITATIONS FOR VOTES**

Solicitations for votes shall not:

- (1) be false or misleading or imply endorsement by the Board;
- (2) contain a material misrepresentation of fact;
- (3) misrepresent credentials, degrees, education, or experience of the candidate;
- (4) include false or misleading testimonials or endorsements;
- (5) mislead or deceive because only partial disclosure of relevant facts are made;
- (6) contain representations or implications that the solicitation materials were generated by the Board; or
- (7) use or refer to the Board's name or any variation of the Board's name on the candidate's letterhead, envelopes, postcards or other printed or electronic media. The candidate may indicate that he or she is a candidate for election to the Board.

*History Note:*     *Authority G.S. 90-22; 90-48;*  
                      *Eff. April 1, 2003.*

**SUBCHAPTER 16M - FEES PAYABLE**

**SECTION .0100 – FEES PAYABLE**

**21 NCAC 16M .0101      DENTISTS**

(a) The following fees shall be payable to the Board:

(1)	Application for general dentistry license	\$ 395.00
(2)	Renewal of general dentistry license	\$ 289.00
(3)	Application for instructor's license or renewal thereof	\$ 140.00
(4)	Application for provisional license	\$ 100.00
(5)	Application for intern permit or renewal thereof	\$ 150.00
(6)	Certificate of license to a resident dentist desiring to change to another state or territory	\$ 25.00
(7)	Duplicate license	\$ 25.00
(8)	Reinstatement of license	\$ 225.00
(9)	Fee for late renewal of any license or permit	\$ 50.00
(10)	Application for license by credentials	\$2000.00
(11)	Application for limited volunteer dental license	\$ 100.00
(12)	Renewal of limited volunteer dental license	\$ 25.00
(13)	Board conducted examination processing fee	\$ 805.00

(b) Each dentist renewing a license to practice dentistry in North Carolina shall be assessed a fee of forty dollars (\$40.00), in addition to the annual renewal fee, to be contributed to the operation of the North Carolina Caring Dental Professionals.

*History Note:* Authority G.S. 90-28; 90-39; 90-48; 150B-19(5);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 1998; December 1, 1994; May 1, 1989; March 1, 1988; May 1, 1987;  
Temporary Amendment Eff. October 28, 1998;  
Amended Eff. August 1, 2000;  
Temporary Amendment Eff. January 1, 2003;  
Amended Eff. May 1, 2011; April 1, 2006; March 1, 2004; January 1, 2004; April 1, 2003.

**21 NCAC 16M .0102      DENTAL HYGIENISTS**

(a) The following fees shall be payable to the Board:

(1)	Application for examination conducted by the Board	\$275.00
(2)	Renewal of dental hygiene license	\$81.00
(3)	Reinstatement of license	\$60.00
(4)	Application for provisional licensure	\$60.00
(5)	Certificate to a resident dental hygienist desiring to change to another state or territory	\$25.00
(6)	Application for license by credentials	\$750.00
(7)	License application processing fee	\$75.00

(b) Each dental hygienist renewing a license to practice dental hygiene in North Carolina shall be assessed a fee of twenty-five dollars (\$25.00), in addition to the annual renewal fee, to be contributed to the operation of the North Carolina Caring Dental Professionals.

*History Note:* Authority G.S. 90-232; 150B-19(5);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. May 1, 1989; March 1, 1988; May 1, 1987;  
Temporary Amendment Eff. August 20, 1999;  
Amended Eff. April 1, 2001;  
Temporary Amendment Eff. January 1, 2003;  
Amended Eff. October 1, 2006; June 1, 2006; March 1, 2004; January 1, 2004; April 1, 2003.

**21 NCAC 16M .0103      PRIMARY SOURCE VERIFICATION FEE**

All primary source verification requests must be in writing. Primary source verifications shall be provided in writing only for a fee of fifteen dollars (\$15.00).

*History Note:*      *Authority G.S. 150B-19(5);*  
                              *Eff. August 1, 1998.*

## SUBCHAPTER 16N - RULEMAKING AND ADMINISTRATIVE HEARING PROCEDURES

### SECTION .0100 - PETITIONS FOR ADOPTION OF RULES

#### 21 NCAC 16N .0101 PETITION FOR RULEMAKING HEARINGS

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall address the petition to the Board's office. The envelope containing the petition should clearly bear the notation: RULEMAKING PETITION RE: and then the subject area, for example, DENTAL PRACTICE ACT or DENTAL HYGIENE ACT.

*History Note:* Authority G.S. 150B-16;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1985.

#### 21 NCAC 16N .0102 CONTENTS OF PETITION

The petition shall include the following information:

- (1) An indication of the subject area to which the petition is directed; for example, "This is a petition to hold a rulemaking hearing to amend Rule .0000 of Subchapter X pertaining to delegable duties to dental auxiliaries";
- (2) Either a draft of the proposed rule or a summary of its contents;
- (3) Reasons for the proposal;
- (4) The effect on existing rules or orders;
- (5) Any data supporting the proposal;
- (6) Affect of the proposed rule on existing practices in the area involved, including cost factors;
- (7) Names of those most likely to be affected by the proposed rule, with addresses if reasonably known; and
- (8) Name and address of each petitioner.

*History Note:* Authority G.S. 150B-16;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.

#### 21 NCAC 16N .0103 DISPOSITION OF PETITIONS

(a) The Board will determine whether the public interest would be served by the adoption, amendment or repeal of the requested rule. Prior to making this determination, the Board may:

- (1) Request additional information from the petitioner;
- (2) Contact interested persons or those likely to be affected by the proposed rule and request comments; and
- (3) It may use any other appropriate method for obtaining information on which to base its determination. It will consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(b) The Board shall act on a petition at its next regularly scheduled meeting or within 120 days after submission of a petition.

*History Note:* Authority G.S. 150B-16;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; October 1, 1986; January 1, 1983.

## **SECTION .0200 - NOTICE OF RULEMAKING HEARINGS**

### **21 NCAC 16N .0201 NOTICE OF PROCEEDINGS**

*History Note:* Authority G.S. 90-28; 90-48; 90-223(b); 150B-12; 150B-60;  
Eff. August 25, 1977;  
Amended Eff. October 1, 1986;  
Repealed Eff. May 1, 1989.

### **21 NCAC 16N .0202 NOTICE OF MAILING LIST**

Any person or agency desiring to be placed on the mailing list for the Board's rulemaking notices may file a written request in the Board's office. The letter of request should state those particular subject areas within the authority of the Board concerning which notice is desired. The Board may require reasonable postage and stationery costs to be paid by those requesting such notices.

*History Note:* Authority G.S. 90-48; 90-223(b); 150B-12(c);  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1985.

### **21 NCAC 16N .0203 ADDITIONAL INFORMATION**

Persons desiring information in addition to that provided in an individual rulemaking notice may contact the Board's office. Any written communication should clearly indicate the rulemaking proceeding which is the subject of the inquiry.

*History Note:* Authority G.S. 90-48; 90-223(b); 150B-12;  
Eff. August 25, 1977;  
Amended Eff. March 1, 1985.

## SECTION .0300 - RULEMAKING HEARINGS

### 21 NCAC 16N .0301 REQUEST TO PARTICIPATE

Any person desiring to present oral data, views, or arguments on the proposed rule must, at least ten days prior to the proposed hearing, file a notice with the Board. Notice of such request to appear or a failure to give timely notice may be waived by the Board in its discretion. Any person permitted to make an oral presentation is directed to submit a written statement of such presentation to the Board prior to or at the time of such hearing.

*History Note:* Authority G.S. 90-48; 150B-12(a);  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16N .0302 CONTENT OF REQUEST: GENERAL TIME LIMITATIONS

A request to make an oral presentation should contain a clear reference to the proposed rule, a brief summary of the individual's views in respect thereto, and how long the individual desires to speak. Presentations shall be limited to 15 minutes unless the Board prescribes some other time limit.

*History Note:* Authority G.S. 90-48; 90-223(b); 150B-12(a);  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16N .0303 RECEIPT OF REQUEST: SPECIFIC TIME LIMITS

Upon receipt of notice of a request for the presentation of oral data, views or arguments on a proposed rule, the Board will acknowledge the receipt of the request and inform such prospective participant of the 15 minute limitation to the end that a full, effective public hearing may be held upon the proposed rule.

*History Note:* Authority G.S. 90-48; 90-223(b); 150B-12(a);  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16N .0304 WRITTEN SUBMISSIONS

Any person may file a written submission containing data, comments or arguments after publication of notice of a rulemaking hearing up to the date of hearing. The Board may in its discretion grant an additional 30 days after a hearing for further comment and argument. These written comments should be sent to the Board's office. They should clearly state the rule or proposed rule to which such comments are addressed.

*History Note:* Authority G.S. 90-48; 90-223(b); 150B-12;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1988; October 1, 1986; March 1, 1985.

### 21 NCAC 16N .0305 BOARD PRESIDENT TO PRESIDE: POWERS AND DUTIES

The president of the Board shall preside at a rulemaking hearing and shall be authorized to do the following:

- (1) Grant any extension of time in connection with a request for the presentation of oral data, views or arguments;
- (2) Recognize any prospective speaker;
- (3) Extend or shorten the time allotted for any particular presentation; and
- (4) Direct the overall proceedings including management of any questions directed to any speaker by any Board member.

*History Note:* Authority G.S. 90-48; 90-223(b); 150B-12(a);  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.

### 21 NCAC 16N .0306 STATEMENT OF REASONS FOR DECISION

*History Note:* Authority G.S. 90-28; 150B-60(4); 90-48; 90-223(b); 150B-12(e);

*Eff. August 25, 1977;*  
*Repealed Eff. May 1, 1989.*

**21 NCAC 16N .0307      RECORD OF PROCEEDINGS**

A record of all rulemaking proceedings will be maintained in the Board's office for as long as the rule is in effect, and for five years thereafter, following filing. This record will contain: the original petition if any, the notice, all written memoranda and information submitted, and any record or summary of oral presentations, if any. A record of the rulemaking proceedings will be available for public inspection during the regular office hours of the Board.

*History Note:      Authority G.S. 90-48; 90-223(b); 150B-12(e);*  
*Eff. August 25, 1977;*  
*Amended Eff. May 1, 1989.*

**21 NCAC 16N .0308      TEMPORARY RULES**

*History Note:      Authority G.S. 90-28; 150B-13;*  
*Eff. August 25, 1977;*  
*Amended Eff. April 1, 1988;*  
*Repealed Eff. May 1, 1989.*

## SECTION .0400 - DECLARATORY RULINGS

### 21 NCAC 16N .0401 SUBJECTS OF DECLARATORY RULINGS

*History Note:* Authority G.S. 90-28; 90-48; 90-223(b); 150B-17;  
Eff. August 25, 1977;  
Amended Eff. October 1, 1986;  
Repealed Eff. May 1, 1989.

### 21 NCAC 16N .0402 SUBMISSION OF REQUEST FOR RULING

All requests for declaratory rulings shall be written and mailed to the Board's office. The envelope containing the request should bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:

- (1) Name and address of petitioner;
- (2) Statute or rule to which petition relates;
- (3) Concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him; and
- (4) A statement of whether an oral hearing is desired and if so, the reason therefor.

*History Note:* Authority G.S. 150B-17;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; October 1, 1986; March 1, 1985.

### 21 NCAC 16N .0403 DISPOSITION OF REQUESTS

- (a) When the Board deems it appropriate to issue a declaratory ruling it shall issue such declaratory ruling as soon as practicable but no longer than 60 days after receipt of the petition.
- (b) A declaratory ruling proceeding may consist of written submissions or other procedures as may be appropriate in the circumstances of the particular request.
- (c) Whenever the Board believes for good cause that the issuance of a declaratory ruling is undesirable, the Board may refuse to issue such ruling. When good cause is deemed to exist, the Board will notify the petitioner of its decision in writing, stating the reasons for the denial of the declaratory ruling.
- (d) For purposes of Paragraph (c) of this Rule, the Board will ordinarily refuse to issue a declaratory ruling:
  - (1) Unless the petitioner shows that the circumstances are so changed since the adoption of the rule that such a ruling would be warranted;
  - (2) Unless the petitioner shows that the agency did not give to the factors specified in the request for a declaratory ruling a full consideration at the time the rule was adopted;
  - (3) Where there has been a previous determination of a contested case involving similar factual questions; and
  - (4) Where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

*History Note:* Authority G.S. 150B-17;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; October 1, 1986.

### 21 NCAC 16N .0404 RECORD OF DECISION

A record of all declaratory ruling proceedings will be maintained in the Board's office for as long as the ruling is in effect and for five years thereafter. This record will contain: the request, all written submissions filed on the request, whether filed by the petitioner or any other person, and a record or summary of all the oral presentations, if any. Records of declaratory ruling proceedings will be available for public inspection during the Board's regular office hours.

*History Note:* Authority G.S. 150B-17;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.

**21 NCAC 16N .0405      DEFINITION**

*History Note:*      *Authority G.S. 90-28; 150B-17; 90-48; 90-223(b); 150B-60(4); 150B-12(e);  
Eff. August 25, 1977;  
Repealed Eff. May 1, 1989.*

## SECTION .0500 - ADMINISTRATIVE HEARING PROCEDURES

### 21 NCAC 16N .0501 RIGHT TO HEARING

When the Board acts, or proposes to act, other than in rulemaking or declaratory ruling proceedings, in a manner which will affect the rights, duties, or privileges of a person, such person has a right to an administrative hearing. When the Board proposes to act in such a manner, it shall give such person notice of his right to a hearing by mailing by certified mail to him at his last known address a notice of the proposed action and a notice of a right to a hearing.

*History Note: Authority G.S. 150B-38(h);  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; November 20, 1980.*

### 21 NCAC 16N .0502 REQUEST FOR HEARING

(a) Any time an individual believes his rights, duties or privileges have been affected by the Board's administrative action, but has not received a notice of a right to an administrative hearing, that individual may file a request for hearing.  
(b) The individual shall submit a request to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING. The request should contain the following information:

- (1) Name and address of the petitioner;
- (2) A concise statement of the action taken by the Board which is challenged;
- (3) A concise statement of the way in which petitioner has been aggrieved; and
- (4) A clear and specific statement of request for a hearing.

*History Note: Authority G.S. 150B-38;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1985; November 20, 1980.*

### 21 NCAC 16N .0503 GRANTING OR DENYING HEARING REQUEST

(a) The Board will decide whether to grant a request for a hearing.  
(b) The denial of request for a hearing will be issued immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.  
(c) Approval of a request for a hearing will be signified by issuing a notice as required by G.S. 150B-38(b) and explained in Rule .0504 of this Section.

*History Note: Authority G.S. 90-28; 150B-38;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980.*

### 21 NCAC 16N .0504 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) The name, position, address and telephone number of a person at the offices of the Board to contact for further information or discussion;
- (2) The date, time, and place for a prehearing conference, if any; and
- (3) Any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license. Upon service of the order, the licensee to whom the order is directed shall immediately cease practicing in North Carolina. The Board shall promptly give notice of hearing pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

*History Note: Authority G.S. 150B-38;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980.*

### **21 NCAC 16N .0505 WHO SHALL HEAR CONTESTED CASES**

All administrative hearings will be conducted by the Board, a panel consisting of a majority of Board members, or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

*History Note: Authority G.S. 150B-38; 150B-40;  
Eff. August 25, 1977;  
Amended Eff. March 1, 1988; October 1, 1986; November 20, 1980.*

### **21 NCAC 16N .0506 PETITION FOR INTERVENTION**

(a) A person desiring to intervene in a contested case must file a written petition with the Board's office. The request should bear the notation: PETITION TO INTERVENE IN THE CASE OF (NAME OF CASE).

(b) The petition must include the following information:

- (1) The name and address of petitioner;
- (2) The business or occupation of petitioner, where relevant;
- (3) A full identification of the hearing in which petitioner is seeking to intervene;
- (4) The statutory or non-statutory grounds for intervention if any, if not, so state;
- (5) Any claim or defense in respect to which intervention is sought; and
- (6) A summary of the arguments or evidence petitioner seeks to present.

(c) The person desiring to intervene shall serve copies of the petition on all parties to the case.

(d) If the Board determines to allow intervention, notice of that decision will be issued promptly to all parties and to the petitioner. In cases of discretionary intervention, such notification will include a statement of any limitations of time, subject matter, evidence or whatever else is deemed necessary which are imposed on the intervenor.

(e) If the Board's decision is to deny intervention, petitioner will be notified promptly. Such notice will be in writing, identifying the reasons for the denial, and will be issued to the petitioner and to all parties.

*History Note: Authority G.S. 150B-38;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1985; November 20, 1980.*

### **21 NCAC 16N .0507 TYPES OF INTERVENTION**

(a) Intervention of Right. A petition to intervene of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and his petition is timely.

(b) Permissive Intervention. A petition to intervene permissively, as provided in the North Carolina Rules of Civil Procedure, Rule 24, will be granted if the petitioner meets the criteria of that rule and the Board determines that:

- (1) There is sufficient legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearings; and
- (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.

(c) Discretionary Intervention. The Board may allow discretionary intervention, with whatever limits and restrictions are deemed appropriate. Upon the filing of a timely petition, discretionary intervention will be deemed advisable if:

- (1) The information petitioner desires to present is relevant, not repetitious and cumulative; and
- (2) The petitioner would lend added impact to the arguments of the parties.

*History Note: Legislative Objection Lodged Eff. February 19, 1980;  
Legislative Objection Removed Eff. March 19, 1981;  
Authority G.S. 150B-38;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; April 2, 1981; November 20, 1980.*

### **21 NCAC 16N .0508 DISQUALIFICATION OF BOARD MEMBERS**

(a) Self Disqualification. If for any reason a Board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.

(b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit should bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (NAME OF CASE).

(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.

(d) Timeliness and Effect of Affidavit. An affidavit of disqualification will be considered timely if filed ten days before commencement of the hearing. Any other affidavit will be considered timely provided it is filed at the first opportunity after the party becomes aware of facts which give rise to a reasonable belief that a Board member may be disqualified under this Rule. When a petition for disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member will not participate in further deliberation or decision of the case.

(e) Procedure for Determining Disqualification:

- (1) The Board will appoint a Board member to investigate the allegations of the affidavit.
- (2) The investigator will report to the Board the findings of the investigation.
- (3) The Board shall decide whether to disqualify the challenged individual.
- (4) The person whose disqualification is to be determined will not participate in the decision but may be called upon to furnish information to the other members of the Board.
- (5) When a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing will continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
- (6) If three or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

*History Note: Authority G.S. 150B-38; 150B-40;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; October 1, 1986; November 20, 1980.*

## **SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS AND PROCEDURES**

### **21 NCAC 16N .0601      FAILURE TO APPEAR**

*History Note:*      *Authority G.S. 90-28; 90-48; 90-223(b); 150B-25(a); 150B-60(4);  
Eff. August 25, 1977;  
Amended Eff. November 20, 1980;  
Repealed Eff. April 1, 1988.*

### **21 NCAC 16N .0602      SIMPLIFICATION OF ISSUES**

The parties to a contested case, specifically including the Board, may agree in advance to simplify the hearing by decreasing the number of the issues to be contested at the hearing, accepting the validity of certain proposed evidence, accepting the findings in some other case which relates to the case at hand or agreeing to such other matters as may expedite the hearing.

*History Note:*      *Authority G.S. 150B-38; 150B-40;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; November 20, 1980.*

### **21 NCAC 16N .0603      SUBPOENAS**

(a) A request for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be made in writing to the Board, shall identify any documents sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas within three days of the receipt of the request.

(b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour and location of the hearing in which the witness is commanded to appear; a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on whose application the subpoena was issued, and a "return of service". The "return of service" form, as filled out, shows the name and capacity of the person serving the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.

(c) Subpoenas shall be served by the sheriff of the county in which the person subpoenaed resides, when the party requesting such subpoena prepays the sheriff's service fee. The subpoena shall be issued in duplicate, with a "return of service" form attached to each copy. A person serving the subpoena shall fill out "return of service" form for each copy and promptly return one copy of the subpoena, with the attached "return of service" form completed, to the Board.

(d) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.

(e) Such objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy sought, or any other reasons sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.

(f) Any objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.

(g) The party who requested the subpoena, at such time as may be granted by the Board, may file a written response to the objection. The written response shall be served by the requesting party on the objecting witness simultaneously with the filing of the response with the Board.

(h) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(i) Promptly after the close of such hearing, the majority of the Board members hearing the contested case will rule on the challenge and issue a written decision. A copy of the decision will be issued to all parties and made a part of the record.

*History Note:*      *Legislative Objection Lodged Eff. November 20, 1980;*

*Legislative Objection Removed Eff. March 19, 1981;  
Authority G.S. 90-28; 90-48; 90-223(b); 150B-39; 150B-40;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1988; October 1, 1986; March 1, 1985.*

#### **21 NCAC 16N .0604 FINAL DECISION**

The Board will issue the final decision in all contested cases. This decision is the prerequisite "final agency decision" for the right to judicial review.

*History Note: Authority G.S. 90-48; 90-223(b); 150B-43;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989.*

#### **21 NCAC 16N .0605 PROPOSALS FOR DECISIONS**

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered. Any party may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. Exceptions and alternative proposals must be received within ten days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which the exception is taken. Exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions must bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE (NAME OF CASE).

(c) Any party may present oral argument to the Board upon request. The request must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, notice will be issued promptly to all parties designating the time and place for such oral argument.

(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered will be a part of the record and a copy thereof shall be given to all parties. The Board decision becomes the "final agency decision" for the right to judicial review. Said decision will be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision will be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions.

*History Note: Authority G.S. 150B-38; 150B-40;  
Eff. August 25, 1977;  
Amended Eff. May 1, 1989; March 1, 1988; October 1, 1986; November 20, 1980.*

#### **21 NCAC 16N .0606 FAILURE TO APPEAR**

Should a party fail to appear at a scheduled hearing, the Board, or the designated administrative law judge, may proceed with the hearing and make its decision in the absence of the party, provided that the party has been given proper notice. The Board or the administrative law judge may order a continuance in order to give the party another opportunity to appear.

*History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-25(a); 150B-60(4);  
Eff. May 1, 1989.*

**SUBCHAPTER 160 – NITROUS-OXIDE-OXYGEN CONSCIOUS SEDATION**

**SECTION .0100 - REGISTRATION AND REPORTING**

**21 NCAC 160 .0101      REGISTRATION**

**21 NCAC 160 .0102      REPORTING**

*History Note:*      *Authority G.S. 90-28; 90-29(b)(6); 90-48; 90-223; 150B-12;*  
*Eff. May 24, 1978;*  
*Repealed Eff. July 16, 1980.*



## SECTION .0300 - DEFINITIONS

### **21 NCAC 160 .0301 CONSCIOUS SEDATION**

"Conscious sedation" means the use of drugs for controlling pain or apprehension without rendering the patient unconscious.

*History Note:* Authority G.S. 90-29(b)(6); 90-48; 90-223;  
Eff. July 16, 1980;  
Amended Eff. May 1, 1989.

### **21 NCAC 160 .0302 MONITORING**

"Monitoring" means observation of the patient during the flow of sedation agents and includes reducing the flow of sedation or shutting off equipment controlling such flow. Monitoring does not include increasing the flow of sedation agents.

*History Note:* Authority G.S. 90-29(b)(6); 90-48; 90-223;  
Eff. July 16, 1980;  
Amended Eff. May 1, 1989.

## SECTION .0400 - QUALIFICATIONS TO PERFORM FUNCTIONS

### 21 NCAC 160 .0401 NON-DELEGABLE FUNCTIONS

Conscious sedation shall not be induced by anyone other than a dentist or a lawfully qualified nurse or anesthetist who does so under the supervision and direction of a dentist or physician.

*History Note:* Authority G.S. 90-29(b)(6); 90-48; 90-223;  
Eff. July 16, 1980;  
Amended Eff. May 1, 1989.

### 21 NCAC 160 .0402 EDUCATIONAL REQUIREMENTS

A Dental Assistant I or a Dental Assistant II not otherwise qualified under G.S. 90-29(c)(13) may aid and assist a licensed dentist in the administration of nitrous oxide-oxygen inhalant conscious sedation after completion of a Board-approved course totalling at least seven hours and directed by an individual or individuals approved by the Board. Such course shall include:

- (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 special 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 conscious sedation 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 conscious sedation techniques, including cardio pulmonary 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.

*History Note:* Authority G.S. 90-29(b)(6); 90-29(c)(13); 90-48; 90-223;  
Eff. July 16, 1980;  
Amended Eff. May 1, 1989.

### 21 NCAC 160 .0403 PREVIOUS COMPLIANCE

*History Note:* Authority G.S. 90-28; 90-29(b)(6); 90-48; 90-223; 150B-12;  
Eff. July 16, 1980;  
Repealed Eff. May 1, 1989.

## SUBCHAPTER 16P - ADVERTISEMENT OF DENTAL SERVICES

### 21 NCAC 16P .0101 COMMUNICATIONS CONCERNING DENTAL SERVICES

A dentist shall not make a false or misleading communication about the dentist or the dentist's services. A communication is false or misleading if it:

- (1) Contains a material misrepresentation of fact;
- (2) Is likely to mislead or deceive because it makes only a partial disclosure of relevant facts;
- (3) Is intended or is likely to create false or unjustified expectations of favorable results;
- (4) Contains express or implied claims of superiority which cannot reasonably be substantiated by the advertising practitioner; or
- (5) Contains other representations or implications which are intended or likely to cause an ordinary, prudent person to misunderstand or be deceived.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986.

### 21 NCAC 16P .0102 ADS MUST INCLUDE DENTIST'S NAME AND AREA OF PRACTICE

All advertisements of dental services shall contain the name or names of the dentist or dentists whose services are being advertised and shall state whether each dentist is a general dentist or, if qualified, a specialist in the named area of specialization. The dentist's name and designation as a general dentist or specialist shall be stated prominently in the advertisement. The dentist whose services are being advertised shall be personally responsible for determining that the content of the advertisement is not contrary to North Carolina law or Board rules.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986.

### 21 NCAC 16P .0103 ADVERTISEMENT OF FEES

Advertisements of dental services shall:

- (1) Not quote a range of fees for a given service unless the basic factors upon which the actual fees will be determined are disclosed;
- (2) Specify any related services which usually are required in conjunction with the advertised services and for which additional fees will be charged; and
- (3) If discounts are advertised, state the amount of the discounts. The dentist must be available in the office and provide upon request a list of actual standard fees to which the discounts will be applied.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986.

### 21 NCAC 16P .0104 TESTIMONIALS AND ENDORSEMENTS

Advertisements for dental services shall not:

- (1) Include false or misleading testimonials and endorsements; or
- (2) Reveal a patient's identity or personally identifiable facts, data or other information obtained in a professional capacity without first obtaining the patient's consent.

*History Note:* Authority G.S. 90-41(a)(16),(17),(18); 90-48;  
Eff. March 1, 1985;  
Amended Eff. May 1, 1989; October 1, 1986.

### 21 NCAC 16P .0105 ADVERTISING AS A SPECIALIST

Only dentists who have successfully completed a postdoctoral course approved by the American Dental Association Commission on Accreditation in a specialty area recognized by the ADA or have been approved by one of the specialty examining Boards recognized by the ADA may announce a specialty practice and advertise as a specialist. Nothing in this Section shall be construed to prohibit a dentist who does not qualify as a specialist under the preceding paragraph

from restricting his practice to one or more specific areas of dentistry or from advertising the availability of his services. Such advertisements may not, however, include the terms "specialist," "specialty," or "specializing," and must state that the services advertised are to be provided by a general dentist.

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

## SUBCHAPTER 16Q - GENERAL ANESTHESIA AND SEDATION

### SECTION .0100 – DEFINITIONS

#### 21 NCAC 16Q .0101 GENERAL ANESTHESIA AND SEDATION DEFINITIONS

For the purpose of these Rules relative to the administration of minimal conscious sedation, moderate conscious sedation, moderate conscious sedation limited to oral routes or nitrous oxide inhalation, moderate pediatric conscious sedation or general anesthesia by or under the direction of a dentist, the following definitions shall apply:

- (1) "Analgesia" – the diminution or elimination of pain.
- (2) "Anti-anxiety sedative" – a sedative agent administered in a dosage intended to reduce anxiety without diminishing consciousness or protective reflexes.
- (3) "Anxiolysis" – pharmacological reduction of anxiety through the administration of a single dose of a minor psychosedative, possibly in combination with nitrous oxide, to children or adults prior to commencement of treatment on the day of the appointment which allows for uninterrupted interactive ability in a totally awake patient with no compromise in the ability to maintain a patent airway continuously and without assistance. Nitrous oxide may be administered in addition to the minor psychosedative without constituting multiple dosing for purpose of these Rules.
- (4) "Behavior control" – the use of pharmacological techniques to control behavior to a level that dental treatment can be performed effectively and efficiently.
- (5) "Behavioral management" – the use of pharmacological or psychological techniques, singly or in combination, to modify behavior to a level that dental treatment can be performed effectively and efficiently.
- (6) "Competent" – displaying special skill or knowledge derived from training and experience.
- (7) "Conscious sedation" - an induced state of a depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, and that is produced by pharmacologic or non-pharmacologic agents, or a combination thereof. In accordance with this particular definition, the drugs or techniques used shall carry a margin of safety wide enough to render unintended loss of consciousness unlikely.
- (8) "Deep sedation" – an induced state of a depressed level of consciousness accompanied by partial loss of protective reflexes, including the ability to continually maintain an airway independently or respond purposefully to verbal command, and is produced by pharmacological agents.
- (9) "Direct supervision" – the dentist responsible for the sedation/anesthesia procedure shall be physically present in the facility and shall be continuously aware of the patient's physical status and well being.
- (10) "Facility" – the location where a permit holder practices dentistry and provides anesthesia/sedation services.
- (11) "Facility inspection" - an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia/sedation is supplied, equipped, staffed and maintained in a condition to support provision of anesthesia/sedation services that meet the minimum standard of care.
- (12) "General anesthesia" - the intended controlled state of a depressed level of consciousness that is produced by pharmacologic agents and accompanied by a partial or complete loss of protective reflexes, including the ability to maintain an airway and respond purposefully to physical stimulation or verbal commands.
- (13) "Immediately available" – on-site in the facility and available for immediate use.
- (14) "Local anesthesia" – the elimination of sensations, especially pain, in one part of the body by the regional application or injection of a drug.
- (15) "May" – indicates freedom or liberty to follow a reasonable alternative.
- (16) "Minimal conscious sedation" – conscious sedation characterized by a minimally depressed level of consciousness, in which patient retains the ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command, provided to patients 13 years or older, by oral or rectal routes of administration of a single pharmacological agent, in one or more doses, not to exceed the manufacturer's maximum recommended dose, at the time of treatment, possibly in combination with nitrous oxide. Minimal conscious sedation is provided for behavioral management.

- (17) "Minor psychosedative/Minor tranquilizer" – pharmacological agents which allow for uninterrupted interactive ability in a patient with no compromise in the ability to maintain a patent airway continuously and without assistance and carry a margin of safety wide enough to render unintended loss of consciousness unlikely.
- (18) "Moderate conscious sedation" – conscious sedation characterized by a drug induced depression of consciousness, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients 13 years or older, by oral, nasal, rectal or parenteral routes of administration of multiple pharmacological agents, in multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate conscious sedation is provided for behavior control.
- (19) "Moderate conscious sedation limited to oral routes and nitrous oxide inhalation" – conscious sedation characterized by a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients 13 years or older, by oral routes of administration and nitrous oxide inhalation, of single or multiple pharmacological agents, in single or multiple doses, within a 24 hour period. Moderate conscious sedation limited to oral routes and nitrous oxide inhalation is provided for behavior control.
- (20) "Moderate pediatric conscious sedation" - conscious sedation characterized by a drug induced depression of consciousness, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients under 13 years of age, by oral, nasal, rectal or parenteral routes of administration of single or multiple pharmacological agents, in single or multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate pediatric conscious sedation is provided for behavior control.
- (21) "Must" or "shall" – indicates an imperative need or duty or both; an essential or indispensable item; mandatory.
- (22) "Parenteral" - the administration of pharmacological agents intravenously, intraosseously, intramuscularly, subcutaneously, submucosally, intranasally, or transdermally.
- (23) "Protective reflexes" – includes the ability to swallow and cough.
- (24) "Supplemental dosing" – the oral administration of a pharmacological agent that results in an enhanced level of conscious sedation when added to the primary sedative agent administered for the purpose of oral moderate conscious sedation, and which, when added to the primary agent, does not exceed the maximum safe dose of either agent, separately or synergistically.
- (25) "Vested adult" – a responsible adult who is the legal parent or guardian, or designee of a legal parent or guardian, entrusted with the care of a minor following the administration of general anesthesia or conscious sedation.

*History Note: Authority G.S. 90-28; 90-30.1;*  
*Eff. February 1, 1990;*  
*Temporary Amendment Eff. December 11, 2002;*  
*Amended Eff. July 3, 2008; August 1, 2004.*

## SECTION .0200 - GENERAL ANESTHESIA

### 21 NCAC 16Q .0201 GENERAL ANESTHESIA CREDENTIALS AND PERMIT

(a) No dentist shall employ or use general anesthesia on an outpatient basis for dental patients unless the dentist possesses a permit issued by the Board. A dentist holding a permit shall be subject to review and shall only employ or use general anesthesia at a facility located in the State of North Carolina in accordance with 21 NCAC 16Q .0202. Such permit must be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the office of the permit holder.

(b) Any dentist who wishes to administer general anesthesia to patients must apply to the Board for the required permit on a prescribed application form, submit an application fee of one hundred dollars (\$100.00) and produce evidence showing that he or she:

- (1) Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects (or its equivalent) beyond the undergraduate dental school level; or
- (2) Has graduated from a program certified by the American Dental Association in Oral and Maxillofacial Surgery; or
- (3) Is a Diplomate of or eligible for examination by the American Board of Oral and Maxillofacial Surgery; or
- (4) Is a Fellow of the American Dental Society of Anesthesiology; or
- (5) Is a dentist who has been administering general anesthetics in a competent manner for the five years preceding the effective date of this Rule.

(c) A dentist who is qualified to administer general anesthesia in accordance with this Section and holds a general anesthesia permit is also authorized to administer any level of sedation without obtaining a separate sedation permit.

(d) The dentist involved with the administration of general anesthesia shall document current, successful completion of advanced cardiac life support (ACLS) training, or its age-specific equivalent or other Board-approved equivalent course and auxiliary personnel shall document annual, successful completion of basic life support (BLS) training.

*History Note: Authority G.S. 90-28; 90-30.1;  
Eff. February 1, 1990;  
Amended Eff. April 1, 2001; August 1, 2000;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. February 5, 2008.*

### 21 NCAC 16Q .0202 EQUIPMENT

(a) A dentist administering general anesthesia is solely responsible for providing that the environment in which the general anesthesia is to be administered meets the following requirements:

- (1) The facility is equipped with:
  - (A) An operatory of size and design to permit access of emergency equipment and personnel and to permit effective emergency management;
  - (B) A chair or table for emergency treatment, including chair suitable for CPR or CPR Board;
  - (C) Lighting as necessary for specific procedures; and
  - (D) Suction equipment as necessary for specific procedures, including non-electrical back-up suction;
- (2) The following equipment is maintained:
  - (A) Positive pressure oxygen delivery system, including full face mask for adults and pediatric patients;
  - (B) Oral and nasal airways of various sizes;
  - (C) Blood pressure monitoring device;
  - (D) Electrocardiograph;
  - (E) Pulse oximeter; and
  - (F) Defibrillator;
- (3) The following emergency equipment is maintained:
  - (A) I.V. set-up as necessary for specific procedures, including hardware and fluids;
  - (B) Laryngoscope with current batteries;
  - (C) Intubation forceps and endotracheal tubes;
  - (D) Tonsillar suction with back-up suction;

- (E) Syringes as necessary for specific procedures;
  - (F) Tourniquet & tape; and
  - (G) Blood pressure monitoring device;
- (4) The following drugs are maintained with a current shelf life and within easy accessibility from the operator and recovery room:
- (A) Epinephrine;
  - (B) Atropine;
  - (C) Lidocaine;
  - (D) Antihistamine;
  - (E) Antihypertensive;
  - (F) Bronchial dilator;
  - (G) Antihypoglycemic agent;
  - (H) Vasopressor;
  - (I) Corticosteroid;
  - (J) Anticonvulsant;
  - (K) Muscle relaxant;
  - (L) Narcotic antagonist;
  - (M) Appropriate anti-arrhythmic medication;
  - (N) Nitroglycerine; and
  - (O) Antiemetic;
- (5) Written emergency and patient discharge protocols and training to familiarize office personnel in the treatment of clinical emergencies are provided; and
- (6) The following records are maintained:
- (A) Patient's current written medical history, including known allergies and previous surgery;
  - (B) Base line vital signs, including blood pressure and pulse;
  - (C) An anesthesia record which shall include:
    - (i) Periodic vital signs taken at intervals during the procedure;
    - (ii) Drugs administered during the procedure, including route of administration, dosage, time and sequence of administration;
    - (iii) Duration of the procedure;
    - (iv) Documentation of complications or morbidity; and
    - (v) Status of patient upon discharge.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of anesthesia while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:
- (1) Monitoring of blood pressure, pulse, and respiration;
  - (2) Drug dosage and administration;
  - (3) Treatment of untoward reactions including respiratory or cardiac depression;
  - (4) Sterilization;
  - (5) Use of CPR certified personnel;
  - (6) Monitoring of patient during recovery; and
  - (7) Sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
- (1) Laryngospasm;
  - (2) Bronchospasm;
  - (3) Emesis and aspiration;
  - (4) Respiratory depression and arrest;
  - (5) Angina pectoris;
  - (6) Myocardial infarction;
  - (7) Hypertension/Hypotension;
  - (8) Syncope;
  - (9) Allergic reactions;
  - (10) Convulsions;
  - (11) Bradycardia;
  - (12) Insulin shock; and

(13) Cardiac arrest.

(d) A dentist administering general anesthesia shall ensure that the facility is staffed with auxiliary personnel who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the general anesthetic or secondary to an unexpected medical complication.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48;  
Effective February 1, 1990;  
Amended Eff. August 1, 2002; August 1, 2000.*

#### **21 NCAC 16Q .0203 TEMPORARY APPROVAL PRIOR TO SITE EVALUATION**

(a) If a dentist meets the requirements of Rule .0201 of this Section, he shall be granted temporary approval to continue to administer general anesthesia until a permit can be issued. Temporary approval may be granted based solely on credentials until all processing and investigation has been completed. Temporary approval may not exceed three months. An on-site evaluation of the facilities, equipment, procedures and personnel shall be required prior to the issuance of a permit.

(b) An evaluation may be made any time it is deemed necessary by the Board.

(c) Temporary approval shall not be granted to a provisional licensee.

*History Note: Authority G.S. 90-28; 90-30.1;  
Eff. February 1, 1990;  
Amended Eff. August 1, 2002.*

#### **21 NCAC 16Q .0204 PROCEDURE FOR EVALUATION OR INSPECTION**

(a) When an evaluation or on-site inspection is required, the Board will designate two or more qualified persons, each of which has administered general anesthesia for at least three years preceding the inspection, exclusive of his training in general anesthesia. When an on-site inspection involves only a facility and equipment check and not an evaluation of the dentist, the inspection may be accomplished by one or more evaluators.

(b) Any dentist-member of the Board may observe or consult in any evaluation.

(c) The inspection team shall determine compliance with the requirements of the Rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail".

(d) Each evaluator shall report his recommendation to the Board, setting forth the details supporting his conclusion. The Board is not bound by these recommendations. The Board shall determine whether the applicant has passed the evaluation/inspection and shall notify the applicant in writing of its decision.

(e) At least a 15-day notice shall be given prior to an evaluation or inspection. The entire evaluation fee of three hundred seventy five dollars (\$375.00) shall be due 10 days after the date of receipt of such notice. An inspection fee of two hundred seventy five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers general anesthesia.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39;  
Eff. February 1, 1990;  
Amended Eff. February 1, 2009; December 4, 2002; January 1, 1994.*

#### **21 NCAC 16Q .0205 RESULTS OF SITE EVALUATION AND REEVALUATION**

(a) An applicant who fails an inspection or evaluation shall not receive a permit to administer general anesthesia, or if the holder of a permit, shall not have it renewed. An applicant who has obtained temporary approval from the Board and fails an inspection or evaluation shall no longer be approved.

(b) An applicant who receives notification of failure of an inspection may, within 15 days after receiving the notice, request a reevaluation. Such request must state specific grounds supporting it. The Board shall require the applicant to receive additional training prior to the reevaluation. The additional training shall consist of, but not be limited to, areas of deficiency as determined by the evaluation.

(c) If the reevaluation is granted, it shall be conducted by different persons, qualified as evaluators, in the manner prescribed in Rule .0204 of this Section.

(d) No applicant who has received a failing notice from the Board may request more than one reevaluation within any 12 month period.

*History Note:* Authority G.S. 90-28; 90-30.1;  
Eff. February 1, 1990;  
Amended Eff. August 1, 2002.

## SECTION .0300 - PARENTERAL CONSCIOUS SEDATION

### 21 NCAC 16Q .0301 CREDENTIALS AND PERMITS FOR MODERATE CONSCIOUS SEDATION, MODERATE PEDIATRIC CONSCIOUS SEDATION AND MODERATE CONSCIOUS SEDATION LIMITED TO ORAL ROUTES OF ADMINISTRATION AND NITROUS OXIDE

a) Before a dentist licensed to practice in North Carolina may administer or supervise a certified registered nurse anesthetist (CRNA) to administer moderate conscious sedation, moderate pediatric conscious sedation or moderate conscious sedation limited to oral routes of administration and nitrous oxide to dental patients on an outpatient basis, the dentist shall obtain a permit from the Board by completing an application form provided by the Board and paying a fee of one hundred dollars (\$100.00). Such permit shall be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the facility of the permit holder.

(b) For a dentist to employ a certified registered nurse anesthetist to administer moderate conscious sedation, moderate conscious sedation limited to oral routes and nitrous oxide or moderate pediatric conscious sedation, the dentist must demonstrate through the permitting process that he or she is capable of performing all duties and procedures to be delegated to the CRNA. The dentist must not delegate said CRNA to perform procedures outside of the scope of the technique and purpose of moderate conscious sedation, moderate pediatric conscious sedation or moderate conscious sedation limited to oral routes and nitrous oxide as defined in Rule .0101 of this Subchapter.

(c) A dentist applying for a permit to administer moderate conscious sedation or moderate pediatric conscious sedation must meet at least one of the following criteria:

- (1) Satisfactory completion of a minimum of 60 hours of didactic training, including PALS (Pediatric Advanced Life Support), and instruction in intravenous conscious sedation and satisfactory management of a minimum of 10 patients, under supervision, using intravenous sedation; or
- (2) Satisfactory completion of a pre-doctoral dental or postgraduate program which included intravenous conscious sedation training equivalent to that defined in Subparagraph (c)(1) of this Rule; or
- (3) Satisfactory completion of an internship or residency which included intravenous conscious sedation training equivalent to that defined in Subparagraph (c)(1) of this Rule.

(d) Notwithstanding the foregoing, a dentist may also qualify for a permit to administer moderate pediatric conscious sedation by documenting, with patient names and dates of completion, at least 100 cases of moderate pediatric sedation procedures successfully completed between July 3, 2006 and July 3, 2009. A dentist who obtains a pediatric conscious sedation permit pursuant to this Paragraph may not administer sedation intravenously and such limitation shall be noted on the dentist's permit.

(e) A dentist may modify his or her moderate conscious sedation permit to include the privilege of moderate pediatric conscious sedation by completing a Board approved pediatric dental degree or pediatric dental residency program or obtaining the equivalent hours of continuing education program in pediatric dental anesthesia. If said qualifications are satisfied, it shall be so designated on the dentist's moderate conscious sedation permit and will be subject to the renewal requirements stated in Rule .0501(d) of this Subchapter.

(f) To be eligible for a moderate conscious sedation permit, moderate conscious sedation limited to oral routes and nitrous oxide inhalation permit or moderate pediatric conscious sedation permit, a dentist must operate within a facility which includes the capability of delivering positive pressure oxygen, and is staffed with supervised auxiliary personnel for each procedure performed. The dentist shall ensure that auxiliary personnel document annual, successful completion of basic life support (BLS) training and are capable of assisting with procedures, problems and emergencies incident thereto.

(g) Prior to issuance of a moderate conscious sedation permit, moderate conscious pediatric sedation permit or moderate conscious sedation permit limited to oral routes and nitrous oxide inhalation permit, the applicant shall undergo an evaluation which includes a facility inspection. The Board shall direct an evaluator to perform this evaluation. The applicant shall be notified in writing that an evaluation and facility inspection is required and provided with the name of the evaluator who shall perform the evaluation and facility inspection. The applicant shall be responsible for successful completion of the evaluation and inspection of his or her facility within three months of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one.

(h) The evaluator shall assign a grade of pass or fail and shall report his recommendation to the Board, setting out the basis for his conclusion. The Board is not bound by the evaluator's recommendation and shall make a final determination regarding whether the applicant has passed the evaluation. The applicant shall be notified of the Board's decision in writing.

(i) A dentist who holds a moderate conscious sedation, moderate conscious sedation limited to oral routes and nitrous oxide inhalation or moderate pediatric conscious sedation permit shall not intentionally administer deep sedation although deep sedation may occur briefly and unintentionally.

(j) A dentist may obtain a moderate conscious sedation permit limited to oral routes of administration and nitrous oxide inhalation, including the ability to add supplemental dosing to the techniques set out in Rule .0101(23) of this Subchapter upon compliance with the following requirements:

- (1) successfully complete 24 hours of didactic training and manage at least 10 adult case experiences, including at least three live clinical dental experiences. The live clinical cases shall not be handled by groups with more than five student participants. The remaining cases may include simulations, video presentations or both, but must include one experience in returning/rescuing a patient from deep to moderate sedation; or
- (2) document, with patient names and dates of completion, at least 100 cases of oral moderate conscious sedation procedures successfully completed within one year preceding June 3, 2008; and fulfill all the requirements listed in Rule .0401 of this Subchapter for minimal conscious sedation.

(k) A dentist who is qualified to administer general anesthesia, moderate conscious sedation or moderate pediatric conscious sedation and holds a general anesthesia, moderate conscious sedation permit or a moderate pediatric conscious sedation permit may administer minimal conscious sedation without obtaining a separate minimal conscious sedation permit.

(l) Any dentist who holds an active parenteral conscious sedation permit as of October 1, 2007 shall be deemed to hold an active moderate conscious sedation permit. Such permits shall be subject to the renewal requirements set out in Rule .0501 of this Subchapter.

*History Note: Authority G.S. 90-28; 90-30.1;*  
*Eff. February 1, 1990;*  
*Amended Eff. April 1, 2001; August 1, 2000; January 1, 1994;*  
*Temporary Amendment Eff. December 11, 2002;*  
*Amended Eff. July 1, 2010, July 3, 2008; August 1, 2004.*

## **21 NCAC 16Q .0302 CLINICAL REQUIREMENTS AND EQUIPMENT**

(a) A dentist administering moderate conscious sedation or moderate pediatric conscious sedation or supervising the administration of moderate conscious sedation or moderate pediatric conscious sedation by a certified registered nurse anesthetist shall ensure that the facility in which the sedation is to be administered meets the following requirements:

- (1) The facility is equipped with:
  - (A) An operatory of size and design to permit access of emergency equipment and personnel and to permit effective emergency management;
  - (B) A CPR Board or a dental chair without enhancements, suitable for providing emergency treatment;
  - (C) Lighting as necessary for specific procedures; and
  - (D) Suction equipment as necessary for specific procedures, including non-electrical back-up suction.
- (2) The following equipment is maintained:
  - (A) Positive oxygen delivery system, including full face mask for adults and pediatric patients and back-up E-cylinder portable oxygen tank apart from the central system;
  - (B) Oral and nasal airways of various sizes;
  - (C) Blood pressure monitoring device;
  - (D) Pulse oximeter; and
  - (E) Automatic External Defibrillator (AED).
- (3) The following emergency equipment is maintained:
  - (A) I.V. set-up as necessary for specific procedures, including hardware and fluids, if anesthesia is intravenous;
  - (B) Syringes as necessary for specific procedures; and
  - (C) Tourniquet and tape.
- (4) The following drugs are maintained with a current shelf life and within easy access from the operatory and recovery area:

- (A) Epinephrine;
  - (B) Atropine;
  - (C) Narcotic antagonist;
  - (D) Antihistamine;
  - (E) Corticosteroid;
  - (F) Nitroglycerine;
  - (G) Bronchial dilator;
  - (H) Antiemetic;
  - (I) Benzodiazepine antagonist; and
  - (J) 50% Dextrose.
- (5) Written emergency and patient discharge protocols are maintained and training to familiarize office personnel in the treatment of clinical emergencies is provided; and
- (6) The following records are maintained for at least 10 years:
- (A) Patient's current written medical history, including known allergies and previous surgery;
  - (B) Drugs administered during the procedure, including route of administration, dosage, strength, time and sequence of administration;
  - (C) A sedation record which shall include:
    - (i) blood pressure;
    - (ii) pulse rate;
    - (iii) respiration;
    - (iv) duration of procedure;
    - (v) documentation of complications or morbidity; and
    - (vi) status of patient upon discharge.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a patient, or where applicable, moderate pediatric conscious sedation on a patient, including the deployment of an intravenous delivery system, while the evaluator observes. Practices limited to pediatric dentistry will not be required to demonstrate the deployment of an intravenous delivery system. Instead, they will orally describe to the evaluator the technique of their training in intravenous and intraosseous deployment. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:
- (1) Monitoring blood pressure, pulse, and respiration;
  - (2) Drug dosage and administration;
  - (3) Treatment of untoward reactions including respiratory or cardiac depression, if applicable;
  - (4) Sterile technique;
  - (5) Use of CPR certified personnel;
  - (6) Monitoring of patient during recovery; and
  - (7) Sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
- (1) Laryngospasm;
  - (2) Bronchospasm;
  - (3) Emesis and aspiration;
  - (4) Respiratory depression and arrest;
  - (5) Angina pectoris;
  - (6) Myocardial infarction;
  - (7) Hypertension/Hypotension;
  - (8) Allergic reactions;
  - (9) Convulsions;
  - (10) Syncope;
  - (11) Bradycardia;
  - (12) Insulin shock; and
  - (13) Cardiac arrest.
- (d) A dentist administering moderate conscious sedation or moderate pediatric conscious sedation shall ensure that the facility is staffed with sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(e) Upon request, the holder of a moderate pediatric conscious sedation or moderate conscious sedation permit may travel to the office of a licensed dentist who does not hold such a permit and provide sedation services at the level for which the traveling dentist holds a valid permit, as well as minimal sedation or moderate conscious sedation limited to oral routes for the patients of that dentist who are undergoing dental procedures. The permit holder is solely responsible for providing that the facility in which the sedation is administered meets the requirements established by the Board, that the required drugs and equipment are present, and that the permit holder utilizes sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training and be capable of assisting with procedures, problems, and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

(f) Holders of moderate conscious sedation permits limited to oral routes and nitrous oxide inhalation may not provide sedation at the office of a licensed dentist who does not hold an appropriate sedation permit.

*History Note:* Authority G.S. 90-28; 90-30.1; 90-48;  
Eff. February 1, 1990;  
Amended Eff. August 1, 2002; August 1, 2000;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. July 1, 2010; July 3, 2008; August 1, 2004.

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

(a) If a dentist meets the requirements of Paragraphs (a) – (e) of Rule .0301 of this Subchapter, he/she shall be granted temporary approval to administer moderate conscious sedation, or moderate pediatric conscious sedation until a permit can be issued. If a dentist meets the requirements of Paragraph (j) of Rule .0301 of this Subchapter, he/she shall be granted temporary approval to administer moderate conscious sedation limited to oral routes and nitrous oxide inhalation. Temporary approval may be granted based solely on credentials until all processing and investigation has been completed. Temporary approval may not exceed three months. An on-site evaluation of the facilities, equipment, procedures, and personnel shall be required prior to issuance of a permanent permit. The evaluation shall be conducted in accordance with Rules .0204 - .0205 of this Subchapter, except that evaluations of dentists applying for moderate conscious sedation permits may be conducted by dentists who have been issued moderate conscious sedation permits by the Board and who have been approved by the Board, as set out in these Rules. A two hundred seventy five dollar (\$275.00) inspection fee shall be collected for each site inspected pursuant to this Rule.

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

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

*History Note:* Authority G.S. 90-28; 90-30.1;  
Eff. February 1, 1990;  
Amended Eff. August 1, 2002; January 1, 1994;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. February 1, 2009; July 3, 2008; August 1, 2004.

## SECTION .0400 - ENTERAL CONSCIOUS SEDATION

### 21 NCAC 16Q .0401 MINIMAL CONSCIOUS SEDATION CREDENTIALS, EVALUATION AND PERMIT

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a certified registered nurse anesthetist to administer minimal conscious sedation, the dentist shall obtain a Board-issued permit for minimal conscious sedation, moderate pediatric conscious sedation, moderate conscious sedation or general anesthesia. A permit is not required for prescription administration of DEA controlled drugs prescribed for postoperative pain control intended for home use. A dentist may obtain a minimal conscious sedation permit from the Board by completing an application form provided by the Board and paying a fee of one hundred dollars (\$100.00). Such permit must be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the office of the permit holder.

(b) Only a dentist who holds a general anesthesia license may administer deep sedation or general anesthesia.

(c) Application:

- (1) A minimal conscious sedation permit may be obtained by completing an application form provided by Board, a copy of which may be obtained from the Board office, and meeting the requirements of Section .0400 of this Subchapter.
- (2) The application form must be filled out completely and appropriate fees paid.
- (3) An applicant for a minimal conscious sedation permit shall be licensed and in good standing with the Board in order to be approved. For purposes of these Rules "good standing" means that the applicant is not subject to a disciplinary investigation and his or her licensee has not been revoked or suspended and is not subject to a probation or stayed suspension order.

(d) Evaluation:

- (1) Prior to issuance of a minimal conscious sedation permit the applicant shall undergo a facility inspection. The Board shall direct an evaluator qualified to administer minimal sedation to perform this inspection. The applicant shall be notified in writing that an inspection is required and provided with the name of the evaluator who shall perform the inspection. The applicant shall be responsible for successful completion of inspection of his or her facility within three months of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one.
- (2) During an inspection or evaluation, the applicant or permit holder shall demonstrate competency in the following areas:
  - (A) Monitoring of blood pressure, pulse, pulse oximetry and respiration;
  - (B) Drug dosage and administration (by verbal demonstration);
  - (C) Treatment of untoward reactions including respiratory or cardiac depression (by verbal demonstration);
  - (D) Sterilization;
  - (E) Use of CPR certified personnel;
  - (F) Monitoring of patient during recovery (by verbal demonstration); and
  - (G) Sufficiency of patient recovery time (by verbal demonstration).
- (3) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
  - (A) Laryngospasm;
  - (B) Bronchospasm;
  - (C) Emesis and aspiration;
  - (D) Respiratory depression and arrest;
  - (E) Angina pectoris;
  - (F) Myocardial infarction;
  - (G) Hypertension/Hypotension;
  - (H) Syncope;
  - (I) Allergic reactions;
  - (J) Convulsions;
  - (K) Bradycardia;
  - (L) Insulin shock; and
  - (M) Cardiac arrest.

- (4) The evaluator shall assign a grade of pass or fail and shall report his recommendation to the Board, setting out the basis for his conclusion. The Board is not bound by the evaluator's recommendation and shall make a final determination regarding whether the applicant has passed the evaluation. The applicant shall be notified of the Board's decision in writing.
- (e) Educational/Professional Requirements:
- (1) The dentist applying for a minimal conscious sedation permit shall meet one of the following criteria:
    - (A) successful completion of training consistent with that described in Part I or Part III of the American Dental Association (ADA) Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, and have documented administration of minimal conscious sedation in a minimum of five cases;
    - (B) successful completion of an ADA accredited post-doctoral training program which affords comprehensive training necessary to administer and manage minimal conscious sedation;
    - (C) successful completion of an 18-hour minimal conscious sedation course which must be approved by the Board based on whether it affords comprehensive training necessary to administer and manage minimal conscious sedation;
    - (D) successful completion of an ADA accredited postgraduate program in pediatric dentistry; or
    - (E) is a North Carolina licensed dentist in good standing who has been using minimal conscious sedation in a competent manner for at least one year immediately preceding October 1, 2007 and his or her office facility has passed an on-site inspection by a Board evaluator as required in Paragraph (d) of this Rule. Competency shall be determined by presentation of successful administration of minimal conscious sedation in a minimum of five clinical cases.
  - (2) All applicants for a minimal sedation permit must document successful completion of a Basic Life Saving (BLS) course within the 12 months prior to the date of application.

*History Note: Authority G.S. 90-28; 90-30.1;  
Temporary Adoption Eff. March 13, 2003; December 11, 2002;  
Eff. August 1, 2004;  
Amended Eff. July 3, 2008.*

## **21 NCAC 16Q .0402 MINIMAL CONSCIOUS SEDATION PERMIT REQUIREMENTS, CLINICAL PROVISIONS AND EQUIPMENT**

- (a) Minimal conscious sedation is indicated for use only as defined in Rule .0101(15) of this Subchapter (relating to Definitions). Minimal conscious sedation is not indicated for use to achieve deep sedation.
- (b) A minimal conscious sedation permit is not required for minor psychosedatives used for anxiolysis prescribed for administration outside of the dental office when pre-procedure instructions are likely to be followed. Medication administered for the purpose of minimal conscious sedation shall not exceed the maximum doses recommended by the drug manufacturer, sedation textbooks, or juried sedation journals. Except for nitrous inhalation, drugs in combination are not permitted for minimal conscious sedation. During longer periods of minimal conscious sedation, in which the amount of time of the procedures exceeds the effective duration of the sedative effect of the drug used, the incremental doses of the sedative shall not exceed total safe dosage levels based on the effective half-life of the drug used.
- (c) Each dentist shall:
  - (1) adhere to the clinical requirements as detailed in Paragraph (e) of this Rule;
  - (2) maintain under continuous direct supervision any auxiliary personnel, who shall be capable of assisting in procedures, problems, and emergencies incident to the use of minimal conscious sedation or secondary to an unexpected medical complication;
  - (3) utilize sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training; and
  - (4) not allow a minimal conscious sedation procedure to be performed in his or her office by a Certified Registered Nurse Anesthetist (CRNA) unless the dentist holds a permit issued by the Board for the procedure being performed. This provision addresses dentists and is not intended to address the scope of practice of persons licensed by any other agency.

(d) Each dentist shall meet the following requirements:

- (1) Patient Evaluation. Patients who are administered minimal conscious sedation must be evaluated for medical health risks prior to the start of any sedative procedure. A patient receiving minimal conscious sedation must be healthy or medically stable (ASA I, or ASA II as defined by the American Society of Anesthesiologists). An evaluation is a review of the patient's current medical history and medication use. However, for individuals who are not medically stable or who have a significant health disability Physical Status III (ASA III, as defined by the American Society of Anesthesiologists) a consultation with their primary care physician or consulting medical specialist regarding potential procedure risk is required.
- (2) Pre-procedure preparation, informed consent:
  - (A) The patient or guardian must be advised of the procedure associated with the delivery of the minimal conscious sedation.
  - (B) Equipment must be evaluated and maintained for proper operation.
  - (C) Baseline vital signs shall be obtained at the discretion of the operator depending on the medical status of the patient and the nature of the procedure to be performed.
  - (D) Dentists administering minimal conscious sedation shall use sedative agents that he/she is competent to administer and shall administer such agents in a manner that is within the standard of care.

(e) Patient monitoring:

- (1) Patients who have been administered minimal conscious sedation shall be monitored during waiting periods prior to operative procedures. An adult who has accepted responsibility for the patient and been given written pre-procedural instruction may provide such monitoring. The patient shall be monitored for alertness, responsiveness, breathing and skin coloration.
- (2) Dentists administering minimal conscious sedation shall maintain direct supervision of the patient during the operative procedure and for such a period of time necessary to establish pharmacologic and physiologic vital sign stability.
  - (A) Oxygenation. Color of mucosa, skin or blood shall be continually evaluated. Oxygen saturation shall be evaluated continuously by pulse oximetry, except as provided in Paragraph (e)(4) of this Rule.
  - (B) Ventilation. Observation of chest excursions or auscultation of breath sounds or both shall be performed.
  - (C) Circulation. Blood pressure and pulse shall be taken and recorded initially and thereafter as appropriate except as provided in Paragraph (e)(4) of this Rule.
  - (D) AED. Dentists administering minimal conscious sedation shall maintain a functioning automatic external defibrillator (AED).
- (3) An appropriate time oriented anesthetic record of vital signs shall be maintained in the permanent record including documentation of individual(s) administering the drug and showing the name of drug, strength and dosage used.
- (4) If the dentist responsible for administering minimal conscious sedation must deviate from the requirements set out in this Rule, he or she shall document the occurrence of such deviation and the reasons for such deviation.

(f) Post-operative procedures:

- (1) Following the operative procedure, positive pressure oxygen and suction equipment shall be immediately available in the recovery area or operatory.
- (2) Vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is sufficiently responsive for discharge from the office.
- (3) Patients who have adverse reactions to minimal conscious sedation shall be assisted and monitored either in an operatory chair or recovery area until stable for discharge.
- (4) Recovery from minimal conscious sedation shall include:
  - (A) cardiovascular function stable;
  - (B) airway patency uncompromised;
  - (C) patient easily arousable and protective reflexes intact;
  - (D) state of hydration within normal limits;
  - (E) patient can talk, if applicable;
  - (F) patient can sit unaided, if applicable;

- (G) patient can ambulate, if applicable, with minimal assistance; and
  - (H) for the patient who is disabled, or incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (5) Prior to allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Paragraph (f)(4) of this Rule and the following discharge criteria:
- (A) oxygenation, circulation, activity, skin color and level of consciousness are sufficient and stable and have been documented;
  - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a responsible adult at time of discharge;
  - (C) responsible individual is available for the patient to transport the patient after discharge;
  - (D) A vested adult must be available to transport patients for whom a motor vehicle restraint system is required and an additional responsible individual must be available to attend to the patients.

(g) The dentist, personnel and facility shall be prepared to treat emergencies that may arise from the administration of minimal conscious sedation, and shall have the ability to provide positive pressure ventilation with 100% oxygen with an age appropriate device.

*History Note: Authority G.S. 90-28; 90-30.1;  
Temporary Adoption Eff. December 11, 2002;  
Eff. August 1, 2004;  
Amended Eff. July 3, 2008.*

#### **21 NCAC 16Q .0403 TEMPORARY APPROVAL PRIOR TO SITE INSPECTION**

- (a) A dentist whose facility has not been inspected but who has otherwise met the requirements of Rule .0401 of this Section may seek temporary approval to administer minimal conscious sedation until a permit can be issued. Temporary approval may be granted based solely on credentials until all processing and investigation has been completed. Temporary approval may not exceed three months.
- (b) Temporary approval shall not be granted to a provisional licensee or to an applicant who is the subject of a disciplinary investigation or whose license has been revoked or suspended or is the subject of a probation or stayed suspension order.
- (c) A two hundred seventy five dollar (\$275.00) fee shall be collected for each site inspected pursuant to Rule .0401 of this Section.

*History Note: Authority G.S. 90-28; 90-30.1.  
Temporary Adoption Eff. December 11, 2002;  
Eff. August 1, 2004;  
Amended Eff. February 1, 2009; July 3, 2008.*

## SECTION .0500 - RENEWAL OF PERMITS

### 21 NCAC 16Q .0501 ANNUAL RENEWAL REQUIRED

(a) General anesthesia and all sedation permits shall be renewed by the Board annually. Such renewal shall be accomplished in conjunction with the license renewal process, and applications for permits shall be made at the same time as applications for renewal of licenses. A one hundred (\$100.00) annual renewal fee shall be paid at the time of renewal.

(b) All sedation permits shall be subject to the same renewal deadlines as are dental practice licenses, in accordance with G.S. 90-31. If the permit renewal application is not received by the date specified in G.S. 90-31, continued administration of general anesthesia or any level of conscious sedation shall be unlawful and shall subject the dentist to the penalties prescribed by Section .0700 of this Subchapter.

(c) As a condition for renewal of the general anesthesia permit, the permit holder shall meet the requirements of 21 NCAC 16Q .0202 and document current, successful completion of advanced cardiac life support (ACLS) training, or its age-specific equivalent or other equivalent course, and auxiliary personnel shall document annual, successful completion of basic life support (BLS) training.

(d) As a condition for renewal of the moderate conscious sedation permit or moderate pediatric conscious sedation permit, the permit holder shall meet the requirements of 21 NCAC 16Q .0302 and the following criteria:

- (1) document annual, successful completion of BLS training and obtain three hours of continuing education each year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:
  - (A) sedation;
  - (B) medical emergencies;
  - (C) monitoring IV sedation and the use of monitoring equipment;
  - (D) pharmacology of drugs and agents used in IV sedation;
  - (E) physical evaluation, risk assessment, or behavioral management; or
  - (F) audit ACLS/Pediatric Advanced Life Support (PALS) courses.
- (2) document current, successful completion of ACLS training or its age-specific equivalent, or other equivalent course and annual successful completion of BLS; and
- (3) moderate pediatric conscious sedation permit holders must have current PALS at all times.

(e) As a condition for renewal of the minimal conscious sedation permit and the moderate conscious sedation permit limited to oral routes and nitrous oxide inhalation, the permit holder shall meet the requirements of 16Q .0402 and shall document annual, successful completion of BLS training and obtain six hours of continuing education every two years in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:

- (1) pediatric or adult sedation;
- (2) medical emergencies;
- (3) monitoring sedation and the use of monitoring equipment;
- (4) pharmacology of drugs and agents used in sedation;
- (5) physical evaluation, risk assessment, or behavioral management; or
- (6) audit ACLS/PALS courses.

(f) Any dentist who fails to renew a general anesthesia or sedation permit on or before March 31 of each year must complete a reinstatement application, pay the one hundred dollar (\$100.00) renewal fee and a one hundred dollar (\$100.00) penalty and comply with all conditions for renewal set out in this Rule for the permit sought. Dentists whose anesthesia or sedation permits have been lapsed for more than 12 calendar months must pass a facilities inspection as part of the reinstatement process.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48;  
Eff. February 1, 1990;  
Amended Eff. August 1, 2002;  
Transferred and Recodified from 16Q .0401 to 16Q .0501;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. July 3, 2008; August 1, 2004.*

### 21 NCAC 16Q .0502 PAYMENT OF FEES

A fee of fifty dollars (\$50.00) shall accompany the permit renewal application, such fee to be separate and apart from the annual license renewal fee imposed by the Board.

*History Note:* Authority G.S. 90-28; 90-30.1;  
Eff. February 1, 1990;  
Transferred and Recodified from 16Q .0402 to .0502.

**21 NCAC 16Q .0503 INSPECTION AUTHORIZED**

Incident to the renewal of an anesthesia or sedation permit, for cause or routinely at reasonable time intervals in order to ensure compliance, the Board may require an on-site inspection of the dentist's facility, equipment, personnel and procedures. Such inspection shall be conducted in accordance with Rules .0204, .0205, .0303, and .0401 of this Subchapter.

*History Note:* Authority G.S. 90-28; 90-30.1;  
Eff. February 1, 1990;  
Amended Eff. January 1, 1994;  
Transferred and Recodified from 16Q .0403 to 16Q .0503;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. August 1, 2004.

## SECTION .0600 - REPORTING AND PENALTIES

### 21 NCAC 16Q .0601      REPORTS OF ADVERSE OCCURRENCES

- (a) A dentist who holds a permit to administer general anesthesia or sedation shall submit a report to the Board within 72 hours after each adverse occurrence related to the administration of general anesthesia or sedation which results in the death of a patient within 24 hours of the procedure.
- (b) A dentist who holds a permit to administer general anesthesia or sedation shall report to the Board, within 30 days after each adverse occurrence related to the administration of general anesthesia or sedation, any situation which results in permanent organic brain dysfunction of a patient within 24 hours of the procedure or which results in physical injury causing hospitalization of a patient within 24 hours of the procedure.
- (c) The adverse occurrence report shall be in writing and shall include:
- (1) The dentist's name, license number and permit number;
  - (2) The date and time of the occurrence;
  - (3) The facility where the occurrence took place;
  - (4) The name and address of the patient;
  - (5) The surgical procedure involved;
  - (6) The type and dosage of sedation or anesthesia utilized in the procedure; and
  - (7) The circumstances involved in the occurrence.
- (d) Upon receipt of any such report, the Board shall make such investigation as it deems appropriate and shall take such action as it deems necessary.

*History Note:*      Authority G.S. 90-28; 90-30.1; 90-41;  
                          Eff. February 1, 1990;  
                          Transferred and Recodified from 16Q .0501 to 16Q .0601.

### 21 NCAC 16Q .0602      FAILURE TO REPORT

If a dentist fails to report any incident as required by these Rules, the dentist shall be subject to discipline in accordance with Section .0700 of this Subchapter.

*History Note:*      Authority G.S. 90-28; 90-30.1; 90-41;  
                          Eff. February 1, 1990;  
                          Transferred and Recodified from 16Q .0502 to 16Q .0602;  
                          Temporary Amendment Eff. December 11, 2002;  
                          Amended Eff. August 1, 2004.

**SECTION .0700 - PENALTY FOR NON-COMPLIANCE**

**21 NCAC 16Q .0701      FAILURE TO COMPLY**

Failure to comply with the provisions of this Subchapter may result in suspension or revocation of the permit and/or the dentist's license to practice dentistry in accordance with G.S. 90-41.

*History Note:*      *Authority G.S. 90-28; 90-30.1; 90-41;*  
*Eff. February 1, 1990;*  
*Transferred and Recodified from 16Q .0601 to 16Q .0701.*

## SUBCHAPTER 16R - CONTINUING EDUCATION REQUIREMENTS: DENTISTS

### SECTION .0100 – CONTINUING EDUCATION

#### **21 NCAC 16R .0101 APPLICATIONS**

A renewal application must be received in the Board's office by 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.

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

#### **21 NCAC 16R .0102 FEE FOR LATE FILING**

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 on January 31 of each year, an additional fee of fifty dollars (\$50.00) shall be charged for the renewal certificate.

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

#### **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.*

#### **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.*

#### **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.*

## **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.

*History Note: Authority G.S. 90-31.1; 90-38;*  
*Eff. May 1, 1994;*  
*Amended Eff. November 1, 2008; September 1, 2008; April 1, 2003; April 1, 2001; August 1, 1998.*

## **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.

## SUBCHAPTER 16S – CARING DENTAL PROFESSIONALS PROGRAM

### SECTION .0100 – GENERAL

#### 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 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. April 1, 2001.

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

The Board shall 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. April 1, 2001.

## SECTION .0200 - GUIDELINES FOR PROGRAM ELEMENTS

### 21 NCAC 16S .0201 RECEIPT AND USE OF INFORMATION OF SUSPECTED IMPAIRMENT

(a) Information concerning suspected impairment may be received by the North Carolina Caring Dental Professionals through any of the following sources:

- (1) reports of physicians, psychologists or counselors;
- (2) reports from family members, staff or other individuals;
- (3) self-referral; or
- (4) referral by the Board.

(b) When information of suspected impairment is received, the Program shall conduct an investigation and routine inquiries to determine the validity of the report.

(c) Dentists and dental hygienists suspected of impairment may be required to submit to personal interviews if the investigation and inquiries indicate the report of impairment may be valid.

*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. April 1, 2001.*

### 21 NCAC 16S .0202 CONFIDENTIALITY

Information received by the Program shall remain confidential and shall not be released to any party outside the membership of the Program. However, information 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.*

### 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) 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.

*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. April 1, 2001.*

### 21 NCAC 16S .0204 MONITORING TREATMENT

A treatment source or facility receiving referrals from the Program shall be continually monitored to determine its ability to provide:

- (1) adequate medical and non-medical staffing;
- (2) appropriate treatment;

- (3) affordable treatment;
- (4) adequate facilities; and
- (5) appropriate post-treatment support.

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

**21 NCAC 16S .0205 MONITORING REHABILITATION AND PERFORMANCE AFTER TREATMENT**

- (a) Program members shall monitor dentists and dental hygienists following treatment. Testing for impairment shall be conducted until rehabilitation has been accomplished.
- (b) Treatment sources shall submit reports to the Director concerning a dentist's or dental hygienist's rehabilitation and performance.
- (c) Impaired dentists and dental hygienists shall submit to periodic personal interviews before the Director or Program members designated by the Director; or, for those referred to the Program by the Board, before the Board's agents. The frequency of personal interviews shall be determined by the dentist's or dental hygienist's ability to accomplish rehabilitation and adequately perform after treatment.
- (d) Complete records shall be maintained by the Program on all dentists and dental hygienists reporting for assistance, treatment, or monitoring and such records shall remain confidential in accordance with G.S. 90-48.2(e).
- (e) The Program shall maintain statistical information regarding impairment, to be reported to the Board periodically, but no less than once a year.
- (f) The Program shall compile and report information periodically to the Board regarding investigations, reports, complaints, intervention, treatment, referral, rehabilitation and follow up care of impaired dentists and dental hygienists. Such reports shall not identify the subject dentist or dental hygienist unless the dentist or dental hygienist was referred by the Board or a determination under Rule .0203(b) of this Section has been made.

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

## **SUBCHAPTER 16T - PATIENT RECORDS**

### **SECTION .0100 - PATIENT RECORDS**

#### **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 must include:

- (1) Patient's full name, address and treatment dates;
- (2) Patient's nearest relative or responsible party;
- (3) Current health history;
- (4) Diagnosis of condition;
- (5) Specific treatment rendered and by whom; and
- (6) Name and strength of any medications prescribed, dispensed or administered along with the quantity and date provided.

(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.*

#### **21 NCAC 16T .0102 TRANSFER OF RECORDS UPON REQUEST**

A dentist shall, upon request by the patient of record, provide original or copies of radiographs and a summary of the treatment record to the patient or to a licensed dentist identified by the patient. A fee may be charged for duplication of radiographs and diagnostic materials. The treatment summary and radiographs shall be provided within 30 days of the request and 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. November 1, 2008*

## **SUBCHAPTER 16U - INVESTIGATIONS**

### **SECTION .0100 - PROCEDURES**

#### **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 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.*

#### **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, Investigators and such other staff members as the 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 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.*

## **SECTION .0200 - COMPLAINTS**

### **21 NCAC 16U .0201      PROCESSING**

Licenses shall be notified of patient complaints against them and given an opportunity to respond except:

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

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

### **21 NCAC 16U .0202      DISPOSITION**

The Secretary-Treasurer or other Board member chairing the Investigative Panel shall direct one or more of the following dispositions of each complaint or other investigation:

- (1) Submission to the Board with a recommendation to dismiss with no action;
- (2) Submission to the Board with a recommendation to resolve by consent;
- (3) Scheduling for pre-hearing conference with the Investigative Panel;
- (4) Scheduling for settlement conference with the Board; or
- (5) Scheduling, with appropriate notice, for contested case hearing.

*History Note:* Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-229; 90-231; 150B-38; 150B-41;  
Eff. October 1, 1996.

### **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 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. Should the Respondent accept the terms, the proposed Consent Order or letter of reprimand must be approved by the full Board. Should the Respondent reject 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.

### **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 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. Forecasts of the evidence may be presented orally or in writing and exhibits may be presented. Witnesses may forecast their own testimony but shall not be sworn nor cross-examined. The settlement conference shall not be recorded nor open to the public. The allowed time for initial presentations shall be agreed upon by counsel ten days prior to the conference, subject to approval by the presiding Board member.
- (c) If the Board deems sanctions are appropriate, a Consent Order or letter of reprimand shall be proposed. Should the Respondent 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.

## SUBCHAPTER 16V – UNPROFESSIONAL CONDUCT

### SECTION .0100 – UNPROFESSIONAL CONDUCT

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

Unprofessional conduct by a dentist shall include, 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;
- (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.

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

#### **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.

*History Note: Authority G.S. 90-223; 90-229;  
Eff. August 1, 1998;  
Amended Eff. October 1, 2001; August 1, 2000; September 1, 1998.*

## SUBCHAPTER 16W - PUBLIC HEALTH HYGIENISTS

### SECTION .0100 - PUBLIC HEALTH HYGIENISTS

#### 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 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.

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

#### 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) CPR certification, updated annually;
- (3) six hours of continuing education in medical emergencies each year; 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 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.*

#### 21 NCAC 16W .0103 TRAINING FOR PUBLIC HEALTH HYGIENISTS PERFORMING PREVENTIVE PROCEDURES

(a) Public health hygienists who provide only educational and preventive procedures such as application of fluorides, fluoride varnishes, and oral screenings, and not clinical procedures, shall be subject to the training provisions set out in Paragraph (b) of this Rule instead of the training provisions required by 21 NCAC 16W .0102.

(b) A public health hygienist may perform preventive procedures as set out in Paragraph (a) of this Rule under the direction of a duly licensed public health dentist if the hygienist:

- (1) maintains CPR certification; and
- (2) completes such other training as may be required by the Oral Health Section of the Department of Health and Human Services.

*History Note: Authority G.S. 90-223; 90-233(a);  
Temporary Adoption Eff. February 8, 2000;  
Eff. April 1, 2001.*

## SUBCHAPTER 16X – MANAGEMENT ARRANGEMENTS

### SECTION .0100 – MANAGEMENT ARRANGEMENTS

#### 21 NCAC 16X .0101 MANAGEMENT ARRANGEMENTS

(a) No dentist or professional entity shall enter into a management arrangement, contractual agreement, stipulation, or other legal binding instrument with a business entity, corporation, proprietorship, or other business entity, for the provision of defined business services, bundled business services, or other business services, the effect of which may provide control of business activities or clinical/professional services of that dentist or professional entity, unless such management arrangement meets the requirements of Paragraphs (b) and (c) of this Rule. This Rule shall not apply to agreements for the provision of legal, financial, or other services not related to the provision of management services for a fee or to employment arrangements between an employee and the dentist or professional entity.

(b) Any management arrangement, contractual agreement, stipulation, or other binding instrument shall:

- (1) be in a writing that:
  - (A) is signed by all parties to the agreement;
  - (B) sets forth all material terms of the arrangement between or among the parties thereto;
  - (C) describes all of the types of services to be provided by the management company and the time periods during which those services will be provided; and
  - (D) sets forth the aggregate compensation to be paid under the management arrangement, contractual agreement, stipulation, or other legal binding instrument with a business entity or the precise methodology for calculating such compensation.
- (2) be reviewed by the Board.

(c) No management arrangement shall provide for or permit any of the following:

- (1) direct or indirect ownership of, or control over clinical aspects of, the dental business of a dentist or professional entity by a management company or the grant to the management company or another non-professional entity control over the distribution of a revenue stream or control over a line of business of the professional entity except for the sale of fixed assets of a dentist or professional entity permitted under the laws of the State of North Carolina;
- (2) ownership or exclusive control of patient records by a management company;
- (3) direct or indirect control over, or input into, the clinical practices of the professional entity or its dentists or ancillary personnel by a management company;
- (4) direct or indirect control over the hiring and firing of clinical personnel or material terms of clinical personnel's relationship with the dentist or professional entity by a management company or a related person;
- (5) authority in the management company to enter into or approve any contract or other arrangement, or material terms of such contract or arrangement, between the professional entity and a dentist for the provision of dental services or the requirement that the management company or related person approve or give input into such contract or arrangement;
- (6) direct or indirect control over the transfer of ownership interests in the professional entity by a management company or other non-professional entity including, without limitation, any agreement or arrangement limiting or requiring in whole or in part the transfer of ownership interests in a professional entity;
- (7) payment to the management company of anything of value based on a formula that will foreseeably increase or decrease because of the increase or decrease in profitability, gross revenues or net revenues of the dentist or professional entity; or
- (8) payments to the management company that, at the time of execution of an agreement as required under Paragraph (b) of this Rule, are likely, foreseeably and purposely in excess of the likely profits of the professional entity not taking into account the compensation to be paid to the management company under the management arrangement.

(d) Notwithstanding Subparagraphs (c)(7) and (c)(8) of this Rule, a management arrangement may provide for the following:

- (1) increased payments to the management company based upon the lowering of costs to the professional entity or dentist;
- (2) decreased payments to the management company based upon increases in costs to the professional entity or dentist; or

- (3) collection of monies, or payment of costs, of the professional entity or dentist by the management company so long as the amounts retained by the management company following payment of any costs of the professional entity or dentist comply with the provisions of this Rule relating to compensation to the management company and all sums collected or retained by the management company in excess of costs paid by the management company plus its compensation are paid at least monthly and at regular intervals to the professional entity.
- (e) No dentist or professional entity shall enter into an oral or written arrangement or scheme that the dentist or professional entity knows or should know has a material purpose of creating an indirect arrangement that, if entered into directly, would violate this Rule.
- (f) For purposes of this Rule, the following terms shall have the following meanings:
  - (1) "Ancillary personnel" shall mean any individual that regularly assists a dentist in the clinical aspects of the practice of dentistry;
  - (2) "Clinical" shall mean of or relating to the activities of a dentist as described in G.S. 90-29(b)(1)-(10);
  - (3) "Employment arrangement" shall mean an arrangement between a professional entity or dentist and an individual who is considered an employee of the professional entity or dentist under the common law test of an employer/employee relationship, or a leased employee working under a written employee leasing agreement which provides that:
    - (A) the individual, although employed by the leasing company, provides services as the leased employee of the dentist or professional entity; and
    - (B) the dentist or professional entity exercises control over all actions taken by the leased employee with regard to the rendering of services to the same extent as the dentist or professional entity would exercise such control if the leased employee were directly employed by the dentist or professional entity;
  - (4) "Management arrangement" shall mean any one or more agreements, understandings or arrangements, alone or together, whether written or oral, between a management company and a dentist or professional entity whereby:
    - (A) a management company regularly provides services for the clinical-related business of a dentist or professional entity; or
    - (B) a management company exerts control over the management or clinical aspects of the business of a dentist or professional entity or its or their employees or contractors; or
    - (C) a management company receives a percentage of the net or gross revenues or profits of a dentist or professional entity.
  - (5) "Management company" shall mean any individual, business corporation, nonprofit corporation, partnership, limited liability company, limited partnership or other legal entity that is not a professional entity or dentist;
  - (6) "Professional entity" shall mean a professional corporation, nonprofit corporation, partnership, professional limited liability company, professional limited partnership or other entity or aggregation of individuals that is licensed or certified or otherwise explicitly permitted to practice dentistry under North Carolina General Statutes; and
  - (7) "Related person" shall mean any person or entity, other than a dentist or professional entity, that owns, is employed by, or regularly receives consideration from, a management company or another related person.

*History Note:* Authority G.S. 90-29(b)(11); 90-48;  
Eff. April 1, 2001.

## SUBCHAPTER 16Y - INTERN PERMITTING: DENTISTS

### 21 NCAC 16Y .0101 ELIGIBILITY REQUIREMENTS

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.

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

### 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 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 written examination(s) administered by the Board; and
- (6) pay the 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 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. January 1, 2004.*

**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 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 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.*

**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 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 permittee's practice of dentistry.

(c) For purposes of this Section, the acts of a 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 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.*

**21 NCAC 16Y .0105      COMPLIANCE**

A permit holder shall comply with limitations delineated in this Subchapter and placed on the permit and shall comply with rules of the Board. Failure to comply with the provisions of this Subchapter may result in suspension or revocation of the intern permit to practice dentistry in accordance with G.S. 90-41.

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

## SUBCHAPTER 16Z – LIMITED SUPERVISION HYGIENISTS

### 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:

- (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 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.

(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;
- (2) successfully complete annual 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.

### 21 NCAC 16Z .0102 RECORD KEEPING

(a) A dentist who designates a dental hygienist employee as capable of providing clinical dental hygiene procedures without direct supervision of the dentist must keep and maintain the following records for at least ten years:

- (1) names of all hygienists who provide clinical dental hygiene procedures without direct supervision;
- (2) proof that each hygienist, at the time of initial approval, met the experience requirements set out in Rule .0101(a) of this Subchapter;
- (3) names and locations of all facilities at which each hygienist has provided clinical dental hygiene procedures without direct supervision;
- (4) work schedules reflecting all locations at which each hygienist is scheduled to provide clinical dental hygiene procedures without direct supervision in the next 30 days;
- (5) work schedules of all hygienists indirectly supervised by the dentist, with sufficient detail to demonstrate that a single dentist does not supervise more than two hygienists employed in clinical dental hygiene positions at any given time;
- (6) records reflecting the personal examination of the patient and the procedures directed by the dentist; and
- (7) proof that the dentist and hygienist complied with the requirements of G.S. 90-233(a1)(1) – (3).

(b) The dentist shall produce all records required to be kept under this Rule to the Dental Board or its employees upon request and shall provide an annual report to the Board in compliance with G.S. 90-233(a4).

*History Note:* Authority G.S. 90-221; 90-233;  
Eff. February 1, 2008.

### 21 NCAC 16Z .0103 INSPECTIONS

All locations at which a hygienist performs clinical dental hygiene procedures without direct supervision of a dentist shall be subject to random, unannounced inspection by the Dental Board or its agents for the purpose of determining if services are provided in compliance with the Center for Disease Control and OSHA standards for infection control and patient treatment.

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

*Eff. February 1, 2008.*