



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

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Replication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.**
Previous publication of text was published in Volume: 32 Issue: 21

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

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

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

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

4. Proposed effective date: January 1, 2019

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: October 11, 2018

Public Hearing time: 6:30 pm

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

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

7. Explain Reason For Proposed Rule(s): The Board identified 21 NCAC 16P.0105 as a rule with substantive public interest during its periodic review of existing rules. The Board seeks to readopt the rule with changes based upon comments received from the public. Proposed amendments were first published in Volume 32, Issue 21 of the North Carolina Register. The Board received additional comments from the public following publication and during the comment period, and now proposes additional changes.

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

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

9. The person to whom written comments may be submitted on the proposed rule(s):
Name: Bobby D. White, Esq.
Address: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

Phone (optional):

Fax (optional):

E-Mail (optional):

10. Comment Period Ends: November 5, 2018

11. Fiscal impact (check all that apply).

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

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

12. Rule-making Coordinator: Whitney Waldenberg

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

Phone: 919-610-0573

E-Mail: whitney@brockerlawfirm.com

Agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: August 10, 2018

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



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

Typed Name: Whitney Waldenberg

Title: Rulemaking Coordinator

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

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

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

7 (a) A dentist shall not advertise or otherwise hold himself or herself out to the public as a specialist, or use any
8 variation of the term, in an area of practice if the communication is false or misleading under Rule.0101 of this Section.

9 (b) It shall not be false or misleading for a dentist to hold himself or herself out to the public as a specialist in a
10 practice area provided the dentist has completed a qualifying postdoctoral educational program in that area. A
11 qualifying postdoctoral educational program is a postdoctoral advanced dental educational program accredited by an
12 agency recognized by the U.S. Department of Education (U.S. DOE).

13 (c) A dentist who has not completed a qualifying postdoctoral educational program shall not advertise or otherwise
14 hold himself or herself out to the public as a specialist, certified specialist, or board-certified specialist, or use any
15 variation of those terms, unless she or he holds current certification by a qualifying specialty board or organization.

16 The Board shall consider the following criteria in determining a qualifying specialty board or organization:

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

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

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

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

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

28 (6) the organization is recognized by another entity whose primary purpose is to evaluate and assess dental
29 specialty boards and organizations.

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

34 (e) A dentist shall maintain documentation of either completion of a qualifying postdoctoral educational program or
35 of his or her current specialty certification and provide the documentation to the Board upon request. Dentists shall
36 maintain documentation demonstrating that the certifying board qualifies under the criteria in Subparagraphs (c)(1)
37 through (6) of this Rule and provide the documentation to the Board upon request.

1 (f) Nothing in this Section shall be construed to prohibit a dentist who does not qualify as a ~~specialist~~ “specialist,”
2 “certified specialist” or “board certified specialist” under ~~the preceding paragraph~~ Paragraphs (b) or (c) of this Rule
3 from restricting his or her practice to one or more specific areas of dentistry or from advertising the availability of his
4 or her services. ~~services, provided that~~ Such such advertisements ~~may do not, not~~ however, include the terms
5 “specialist,” “specialty,” or “specializing.” ~~“certified specialist,” or “board-certified specialist,”~~ or any variation of
6 those terms, and must state that the services advertised are to be provided by a general dentist.

7 *History Note: Authority G.S. 90-41(a)(16),(17),(18); 90-48;*

8 *Eff. March 1, 1985;*

9 *Amended Eff. April 1, 2003; May 1, 1989.*

10 *Readopted Eff. January 1, 2019;*