

## Update on Sedation Rule Amendments

April 23, 2016

As many of you know, the North Carolina State Board of Dental Examiners and a committee of practitioners from across the state have been working to amend the Board's general anesthesia and sedation rules to improve public safety and stay current with advances in technology and science. After holding public hearings across the state and considering suggestions from practitioners and members of the public, the Dental Board submitted its proposed rule changes to the North Carolina Rules Review Commission in late 2015, as required by law.

After the Board incorporated numerous grammatical and stylistic changes recommended by the Commission staff, the Rules Review Commission adopted the Board's proposed rule changes at its March 17, 2016 meeting.

Thereafter, a number of practitioners submitted objections to 21 NCAC 16Q .0101, the sedation rule definition section, and requested legislative review of that rule. Because the definitions in Rule 16Q .0101 affect many parts of the general anesthesia and sedation rules, the Dental Board voluntarily decided to delay implementation of most, but not all, of the contemplated rule changes until the legislature acts on the objections to 21 NCAC 16Q .0101.

The following is a break-down of the status of the Board's various changes to the general anesthesia and sedation rules:

Amendments to the rules governing nitrous oxide, 21 NCAC 16Q .0301, .0302, and .0401, became effective April 1, 2016. For text of amended rules, see the Board's website.

Amendments to 21 NCAC 16Q .0101, .0201, .0202, .0204, .0301, .0302 and .0304 are stayed (meaning they will not go into effect) until the legislature completes its review of Rule 16Q .0101 during the upcoming "short session" of the General Assembly, which begins on April 25, 2016.

Adoption of new Rules 21 NCAC 16Q .0206, .0207, .0305, .0306, .0404 - .0408 and .0703. is also stayed until the General Assembly acts upon the objections to Rule 16Q .0101.

Repeal of Rules 21 NCAC 16Q .0203, .0303 and .0403, which allow the Board to issue temporary sedation permits in some instances, became

effective April 1. (This means the Board will no longer issue temporary sedation permits.)

Repeal of Rules 21 NCAC 16Q .0205, .0401, .0402, .0501 - .0503 and 16Q .0601 and .0602 has been delayed until the General Assembly acts upon the objections to Rule 16Q .0101.

While the Board is waiting for the General Assembly to act, the Board's current rules governing general anesthesia and sedation will remain in place, except as noted above.

### **Impact on Holders of Minimal Conscious Sedation Permits and Permits to Administer Moderate Conscious Sedation Limited to Oral Routes**

The Board's amended rules eliminate the permits for minimal conscious sedation and moderate conscious sedation limited to oral routes. As currently planned, these permits will expire on the next March 31 after the legislature rules on the objections to 21 NCAC 16Q .0101. Any North Carolina dentist who wishes to administer minimal sedation or moderate sedation limited to oral routes after that date will need to apply for and obtain a moderate conscious sedation permit from the Dental Board.

### **Frequently Asked Questions**

**Q. In light of the recent changes to the Board's rules, may I continue to administer minimal conscious sedation?**

A. Yes, so long as you have a current permit to administer minimal conscious sedation or any higher level sedation or general anesthesia permit.

Under the pending rule changes that have not yet gone into effect, the permits for minimal conscious sedation and moderate conscious sedation limited to oral routes will be eliminated. However, these changes will not occur until the next renewal date (March 31) after the legislature rules on the objections to Rule 16Q .0101.

Because the legislature will not consider Rule 16Q. 0101 until after it convenes on April 25, 2016, the earliest date on which the minimal

conscious sedation permit and moderate conscious sedation limited to oral routes permit will be eliminated is March 31, 2017.

**Q. When the new sedation rules go into effect, does that mean I won't be able to offer minimal sedation to my patients?**

A. No. Once the amended rules go into effect, dentists will need a moderate conscious sedation permit to administer minimal sedation, moderate conscious sedation limited to oral routes or moderate conscious sedation. The purpose of the rule change is to require more training and safety precautions to dentists who offer sedation, not to prevent dentists from administering minimal sedation or moderate conscious sedation limited to oral routes.

**Q. When will my minimal conscious sedation permit expire?**

A. As matters now stand, all sedation permits – including those for minimal sedation and moderate conscious sedation limited to oral routes – will expire on March 31 of each year, just as always. Until the legislature acts on the objections to 21 NCAC 16Q .0101, all permit holders will be allowed to renew their sedation permits.

Once the General Assembly acts upon the objections to Rule 16Q .0101, holders of minimal conscious sedation permits and permits to administer moderate conscious sedation limited to oral routes may continue to administer sedation as usual, until the next March 31, when their permits expire. At that time, holders of these permits will not be permitted to renew their permits. Dentists who wish to administer minimal sedation or moderate conscious sedation limited to oral routes will be required to obtain a moderate conscious sedation permit.

Example – if the legislature rules on the objections to 16Q .0101 on or before March 31, 2017, holders of permits to administer minimal sedation and moderate conscious sedation limited to oral routes would have until March 31, 2017 in which to cease providing sedation or upgrade to a moderate conscious sedation permit.

**Q. What happens if I decide to apply for a moderate conscious sedation permit but the Board hasn't ruled on my application when the new sedation rules go into effect?**

You will be able to administer sedation under any permit that is currently effective, but you will not be able to administer moderate conscious sedation until your application is completed and you have passed an inspection and evaluation.

As long as you have completed your training and application for a moderate conscious sedation permit before the amended sedation rules become effective, you will not be required to obtain the additional training required by the new rules.

However, any applicant for a moderate conscious sedation permit who fails either the evaluation or the inspection after the new rules become effective, will be required to reapply and complete all training required by the new moderate conscious sedation rules.

Applicants for a moderate conscious sedation permit who have not completed their application before the new sedation rules go into effect must comply with the additional training set out in the new sedation rules.

**Q. If I apply for a minimal conscious sedation permit before the amended sedation rules become effective, but the Board doesn't rule on my application until after the new rules go into effect, will I still be able to receive a minimal conscious permit?**

A. No. Once the new sedation rules become effective, the Board will not grant any new minimal sedation permits or permits for moderate conscious sedation limited to oral routes.

**Q. If I already hold a moderate conscious sedation permit, will I have to comply with the additional training requirements set out in the amended rules to renew my permit?**

A. No.

**Highlights of Pending Sedation/General Anesthesia Rules**

1. The revised rules will require dentists administering any level of anesthesia or sedation to have at least two BLS certified auxiliaries present during all anesthesia and sedation procedures.
2. Only providers with a general anesthesia or moderate conscious sedation permit may employ a CRNA or an RN to deliver or administer sedation. [Note: According to the Rules of the North Carolina Nursing Board, an RN may not deliver or administer general anesthesia.] Those auxiliaries may only assist with sedation at the level of the dentist's permit. In other words, a dentist with a moderate conscious sedation permit may not employ a CRNA to administer general anesthesia.
3. When there is an adverse occurrence (death or hospitalization), new Rule 16Q .0703 imposes an automatic 10 day suspension of the permit for general anesthesia permit holders. Other practitioners must surrender their permits until further order of the Board following an adverse occurrence.
4. The revised rules require all anesthesia and sedation permit holders to certify that their staffs have read the practice emergency procedures manual, participated in at least two emergency drills and have current BLS as a condition of renewal of the permit.
5. Practitioners who do IV sedation will have to demonstrate that procedure during the evaluation. Other permit holders/applicants will orally describe obtaining IV or IO access.
6. All anesthesia and sedation permit holders will have to complete six hours of CE per year in one of a laundry list of subjects. General anesthesia and moderate conscious sedation permit holders have to maintain current ACLS. Moderate pediatric conscious sedation permit holders have to maintain PALS. Other providers have to maintain BLS.
7. All facilities in which anesthesia or sedation is administered will be inspected at least once every five years by the Dental Board.
8. General anesthesia may be performed at the office of a dentist other than the anesthesia permit holder in two ways: 1) the

permit holder can travel and takes responsibility for making sure that the host facility has passed a Board inspection or 2) the permit holder can apply for an itinerant provider permit (a new category) and perform an inspection of the host facility himself or herself.

9. The temporary permit rules have been repealed.
10. Any licensed North Carolina dentist may administer anxiolysis without obtaining a permit, but not in conjunction with nitrous oxide.