Article 2. Dentistry.

**§ 90-22.  Practice of dentistry regulated in public interest; Article liberally construed; Board of Dental Examiners; composition; qualifications and terms of members; vacancies; nominations and elections; compensation; expenditures by Board.**

(a)     The practice of dentistry in the State of North Carolina is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest.  It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified persons be permitted to practice dentistry in the State of North Carolina.  This Article shall be liberally construed to carry out these objects and purposes.

(b)        The North Carolina State Board of Dental Examiners heretofore created by Chapter 139, Public Laws 1879 and by Chapter 178, Public Laws 1915, is hereby continued as the agency of the State for the regulation of the practice of dentistry in this State.  Said Board of Dental Examiners shall consist of six dentists who are licensed to practice dentistry in North Carolina, one dental hygienist who is licensed to practice dental hygiene in North Carolina and one person who shall be a citizen and resident of North Carolina and who shall be licensed to practice neither dentistry nor dental hygiene.  The dental hygienist or the consumer member cannot participate or vote in any matters of the Board which involves the issuance, renewal or revocation of the license to practice dentistry in the State of North Carolina.  The consumer member cannot participate or vote in any matters of the Board which involve the issuance, renewal or revocation of the license to practice dental hygiene in the State of North Carolina.  Members of the Board licensed to practice dentistry in North Carolina shall have been elected in an election held as hereinafter provided in which every person licensed to practice dentistry in North Carolina and residing or practicing in North Carolina shall be entitled to vote.  Each member of said Board shall be elected for a term of three years and until his successor shall be elected and shall qualify.  Each year there shall be elected two dentists for such terms of three years each.  Every three years there shall be elected one dental hygienist for a term of three years.  Dental hygienists shall be elected to the Board in an election held in accordance with the procedures hereinafter provided in which those persons licensed to practice dental hygiene in North Carolina and residing or practicing in North Carolina shall be entitled to vote.  Every three years a person who is a citizen and resident of North Carolina and licensed to practice neither dentistry nor dental hygiene shall be appointed to the Board for a term of three years by the Governor of North Carolina.  Any vacancy occurring on said Board shall be filled by a majority vote of the remaining members of the Board to serve until the next regular election conducted by the Board, at which time the vacancy will be filled by the election process provided for in this Article, except that when the seat on the Board held by a person licensed to practice neither dentistry nor dental hygiene in North Carolina shall become vacant, the vacancy shall be filled by appointment by the Governor for the period of the unexpired term.  No dentist shall be nominated for or elected to membership on said Board, unless, at the time of such nomination and election such person is licensed to practice dentistry in North Carolina and actually engaged in the practice of dentistry.  No dental hygienist shall be nominated for or elected to membership on said Board unless, at the time of such nomination and election, such person is licensed to practice dental hygiene in North Carolina and is currently employed in dental hygiene in North Carolina.  No person shall be nominated, elected, or appointed to serve more than two consecutive terms on said Board.

(c)        Nominations and elections of members of the North Carolina State Board of Dental Examiners shall be as follows:

(1)        An election shall be held each year to elect successors to those members whose terms are expiring in the year of the election, each successor to take office on the first day of August following the election and to hold office for a term of three years and until his successor has been elected and shall qualify; provided that if in any year the election of the members of such Board for that year shall not have been completed by August 1 of that year, then the said members elected that year shall take office immediately after the completion of the election and shall hold office until the first of August of the third year thereafter and until their successors are elected and qualified.  Persons appointed to the Board by the Governor shall take office on the first day of August following their appointment and shall hold office for a term of three years and until such person's successor has been appointed and shall qualify; provided that if in any year the Governor shall not have appointed a person by August first of that year, then the said member appointed that year shall take office immediately after his appointment and shall hold office until the first of August of the third year thereafter and until such member's successor is appointed and qualified.

(2)        Every dentist with a current North Carolina license residing or practicing in North Carolina shall be eligible to vote in elections of dentists to the Board.  Every dental hygienist with a current North Carolina license residing or practicing in North Carolina shall be eligible to vote in elections of dental hygienists to the Board.  The holding of such a license to practice dentistry or dental hygiene in North Carolina shall constitute registration to vote in such elections.  The list of licensed dentists and dental hygienists shall constitute the registration list for elections to the appropriate seats on the Board.

(3)        All elections shall be conducted by the Board of Dental Examiners which is hereby constituted a Board of Dental Elections.  If a member of the Board of Dental Examiners whose position is to be filled at any election is nominated to succeed himself, and does not withdraw his name, he shall be disqualified to serve as a member of the Board of Dental Elections for that election and the remaining members of the Board of Dental Elections shall proceed and function without his participation.

(4)        Nomination of dentists for election shall be made to the Board of Dental Elections by a written petition signed by not less than 10 dentists licensed to practice in North Carolina and residing or practicing in North Carolina.  Nomination of dental hygienists for election shall be made to the Board of Dental Elections by a written petition signed by not less than 10 dental hygienists licensed to practice in North Carolina and residing or practicing in North Carolina.  Such petitions shall be filed with said Board of Dental Elections subsequent to January 1 of the year in which the election is to be held and not later than midnight of the twentieth day of May of such year, or not later than such earlier date (not before April 1) as may be set by the Board of Dental Elections: provided, that not less than 10 days' notice of such earlier date shall be given to all dentists or dental hygienists qualified to sign a petition of nomination.  The Board of Dental Elections shall, before preparing ballots, notify all persons who have been duly nominated of their nomination.

(5)        Any person who is nominated as provided in subdivision (4) above may withdraw his name by written notice delivered to the Board of Dental Elections or its designated secretary at any time prior to the closing of the polls in any election.

(6)        Following the close of nominations, there shall be prepared, under and in accordance with such rules and regulations as the Board of Dental Elections shall prescribe, ballots containing, in alphabetical order, the names of all nominees; and each ballot shall have such method of identification, and such instructions and requirements printed thereon, as shall be prescribed by the Board of Dental Elections.  At such time as may be fixed by the Board of Dental Elections a ballot and a return official envelope addressed to said Board shall be mailed to each person entitled to vote in the election being conducted, together with a notice by said Board designating the latest day and hour for return mailing and containing such other items as such Board may see fit to include.  The said envelope shall bear a serial number and shall have printed on the left portion of its face the following:

"Serial No. of Envelope \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Voter      \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Voter        \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                                    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Note: The enclosed ballot is not valid unless the signature of the voter is on this envelope)."

            The Board of Dental Elections may cause to be printed or stamped or written on said envelope such additional notice as it may see fit to give.  No ballot shall be valid or shall be counted in an election unless, within the time hereinafter provided, it has been delivered to said Board by hand or by mail and shall be sealed.  The said Board by rule may make provision for replacement of lost or destroyed envelopes or ballots upon making proper provisions to safeguard against abuse.

(7)        The date and hour fixed by the Board of Dental Elections as the latest time for delivery by hand or mailing of said return ballots shall be not earlier than the tenth day following the mailing of the envelopes and ballots to the voters.

(8)        The said ballots shall be canvassed by the Board of Dental Elections beginning at noon on a day and at a place set by said Board and announced by it in the notice accompanying the sending out of the ballots and envelopes, said date to be not later than four days after the date fixed by the Board for the closing of the balloting.  The canvassing shall be made publicly and any licensed dentists may be present.  The counting of ballots shall be conducted as follows: The envelopes shall be displayed to the persons present and an opportunity shall be given to any person present to challenge the qualification of the voter whose signature appears on the envelope or to challenge the validity of the envelope.  Any envelope (with enclosed ballot) challenged shall be set aside, and the challenge shall be heard later or at that time by said Board.  After the envelopes have been so exhibited, those not challenged shall be opened and the ballots extracted therefrom, insofar as practicable without showing the marking on the ballots, and there shall be a final and complete separation of each envelope and its enclosed ballot.  Thereafter each ballot shall be presented for counting, shall be displayed and, if not challenged, shall be counted.  No ballot shall be valid if it is marked for more nominees than there are positions to be filled in that election: provided, that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choices or choice from the ballot.  The counting of the ballots shall be continued until completed.  During the counting, challenge may be made to any ballot on the grounds only of defects appearing on the face of the ballot.  The said Board may decide the challenge immediately when it is made or it may put aside the ballot and determine the challenge upon the conclusion of the counting of the ballots.

(9)        a.         Where there is more than one nominee eligible for election to a single seat:

1.         The nominee receiving a majority of the votes cast shall be declared elected.

2.         In the event that no nominee receives a majority, a second election shall be conducted between the two nominees who receive the highest number of votes.

b.         Where there are more than two nominees eligible for election to either of two seats at issue in the same election:

1.         A majority shall be any excess of the sum ascertained by dividing the total number of votes cast for all nominees by four.

2.         In the event that more than two nominees receive a majority of the votes cast, the two receiving the highest number of votes shall be declared elected.

3.         In the event that only one of the nominees receives a majority, he shall be declared elected and the Board of Dental Examiners shall thereupon order a second election to be conducted between the two nominees receiving the next to highest number of votes.

4.         In the event that no nominee receives a majority, a second election shall be conducted between the four candidates receiving the highest number of votes.  At such second election, the two nominees receiving the highest number of votes shall be declared elected.

c.         In any election, if there is a tie between candidates, the tie shall be resolved by the vote of the Board of Dental Examiners, provided that if a member of that Board is one of the candidates in the tie, he may not participate in such vote.

(10)      In the event there shall be required a second election, there shall be followed the same procedure as outlined in the paragraphs above subject to the same limitations and requirements: provided, that if the second election is between four candidates, then the two receiving the highest number of votes shall be declared elected.

(11)      In the case of the death or withdrawal of a candidate prior to the closing of the polls in any election, he shall be eliminated from the contest and any votes cast for him shall be disregarded. If, at any time after the closing of the period for nominations because of lack of plural or proper nominations or death, or withdrawal, or disqualification or any other reason, there shall be (i) only two candidates for two positions, they shall be declared elected by the Board of Dental Elections, or (ii) only one candidate for one position, he shall be declared elected by the Board of Dental Elections, or (iii) no candidate for two positions, the two positions shall be filled by the Board of Dental Examiners, or (iv) no candidate for one position, the position shall be filled by the Board of Dental Examiners, or (v) one candidate for two positions, the one candidate shall be declared elected by the Board of Dental Elections and one qualified dentist shall be elected to the other position by the Board of Dental Examiners.  In the event of the death or withdrawal of a candidate after election but before taking office, the position to which he was elected shall be filled by the Board of Dental Examiners.  In the event of the death or resignation of a member of the Board of Dental Examiners, after taking office, his position shall be filled for the unexpired term by the Board of Dental Examiners.

(12)      An official list of licensed dentists shall be kept at an office of the Board of Dental Elections and shall be open to the inspection of any person at all times.  Copies may be made by any licensed dentist.  As soon as the voting in any election begins a list of the licensed dentists shall be posted in such office of said Board and indication by mark or otherwise shall be made on that list to show whether a ballot-enclosing envelope has been returned.

(13)      All envelopes enclosing ballots and all ballots shall be preserved and held separately by the Board of Dental Elections for a period of six months following the close of an election.

(14)      From any decision of the Board of Dental Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner otherwise provided by Chapter 150B of the General Statutes of North Carolina.

(15)      The Board of Dental Elections is authorized to make rules and regulations relative to the conduct of these elections, provided same are not in conflict with the provisions of this section and provided that notice shall be given to all licensed dentists residing in North Carolina.

(d)       For service on the Board of Dental Elections, the members of such Board shall receive the per diem compensation and expenses allowed by this Article for service as members of the Board of Dental Examiners.  The Board of Dental Elections is authorized and empowered to expend from funds collected under the provisions of this Article such sum or sums as it may determine necessary in the performance of its duties as a Board of Dental Elections, said expenditures to be in addition to the authorization contained in G.S. 90-43 and to be disbursed as provided therein.

(e)        The Board of Dental Elections is authorized to appoint such secretary or secretaries and/or assistant secretary or assistant secretaries to perform such functions in connection with such nominations and elections as said Board shall determine, provided that any protestant or contestant shall have the right to a hearing by said Board in connection with any challenge of a voter, or an envelope, or a ballot or the counting of an election.  Said Board is authorized to designate an office or offices for the keeping of lists of registered dentists, for the issuance and the receipt of envelopes and ballots. (1935, c. 66, s. 1; 1957, c. 592, s. 1; 1961, c. 213, s. 1; 1971, c. 755, s. 1; 1973, c. 1331, s. 3; 1979, 2nd Sess., c. 1195, ss. 1-5; 1981, c. 751, ss. 1, 2; 1987, c. 827, s. 1.)

**§ 90-23.  Officers; common seal.**

The North Carolina State Board of Dental Examiners shall, at each annual meeting thereof, elect one of its members president and one secretary-treasurer. The common seal which has already been adopted by said Board, pursuant to law, shall be continued as the seal of said Board. (1935, c. 66, s. 2.)

**§ 90-24.  Quorum; adjourned meetings.**

A majority of the members of said Board shall constitute a quorum for the transaction of business and at any meeting of the Board, if a majority of the members are not present at the time and the place appointed for the meeting, those members of the Board present may adjourn from day to day until a quorum is present, and the action of the Board taken at any adjourned meeting thus had shall have the same force and effect as if had upon the day and at the hour of the meeting called and adjourned from day to day. (1935, c. 66, s. 2; 1981, c. 751, s. 3.)

**§ 90-25.  Records and transcripts.**

The said Board shall keep a record of its transactions at all annual or special meetings and shall provide a record book in which shall be entered the names and proficiency of all persons to whom licenses may be granted under the provisions of law. The said book shall show, also, the license number and the date upon which such license was issued and shall show such other matters as in the opinion of the Board may be necessary or proper. Said book shall be deemed a book of record of said Board and a transcript of any entry therein or a certification that there is not entered therein the name, proficiency and license number or date of granting such license, certified under the hand of the secretary-treasurer, attested by the seal of the North Carolina State Board of Dental Examiners, shall be admitted as evidence in any court of this State when the same shall otherwise be competent. (1935, c. 66, s. 2.)

**§ 90-26.  Annual and special meetings.**

The North Carolina State Board of Dental Examiners shall meet annually on the date and at the time and place as may be determined by the Board, and at such other dates, times, and places as may be determined by action of the Board or by any majority of the members thereof. Notice of the date, time, and place of the annual meeting and of the date, time, and place of any special or called meeting shall be given in writing, by registered or certified mail or personally, to each member of the Board at least 10 days prior to said meeting; provided the requirements of notice may be waived by any member of the Board. At the annual meeting or at any special or called meeting, the said Board shall have the power to conduct examination of applicants and to transact such other business as may come before it, provided that in case of a special meeting, the purpose for which said meeting is called shall be stated in the notice. (1935, c. 66, s. 3; 1961, c. 446, s. 1; 1981, c. 751, s. 4; 1995 (Reg. Sess., 1996), c. 584, s. 5.)

**§ 90-27.  Judicial powers; additional data for records.**

The president of the North Carolina State Board of Dental Examiners, and/or the secretary-treasurer of said Board, shall have the power to administer oaths, issue subpoenas requiring the attendance of persons and the production of papers and records before said Board in any hearing, investigation or proceeding conducted by it.  The sheriff or other proper official of any county of the State shall serve the process issued by said president or secretary-treasurer of said Board pursuant to its requirements and in the same manner as process issued by any court of record.  The said Board shall pay for the service of all process, such fees as are provided by law for the service of like process in other cases.

Any person who shall neglect or refuse to obey any subpoena requiring him to attend and testify before said Board or to produce books, records or documents shall be guilty of a Class 1 misdemeanor.

The Board shall have the power, upon the production of any papers, records or data, to authorize certified copies thereof to be substituted in the permanent record of the matter in which such books, records or data shall have been introduced in evidence. (1935, c. 66, s. 4; 1993, c. 539, s. 616; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 90-28.  Bylaws and regulations; acquisition of property.**

(a)        The North Carolina State Board of Dental Examiners shall have the power to make necessary bylaws and regulations, not inconsistent with the provisions of this Article, regarding any matter referred to in this Article and for the purpose of facilitating the transaction of business by the Board.

(b)        The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board. (1935, c. 66, s. 5; 2005-366, s. 3.)

**§ 90-29.  Necessity for license; dentistry defined; exemptions.**

(a)        No person shall engage in the practice of dentistry in this State, or offer or attempt to do so, unless such person is the holder of a valid license or certificate of renewal of license duly issued by the North Carolina State Board of Dental Examiners.

(b)        A person shall be deemed to be practicing dentistry in this State who does, undertakes or attempts to do, or claims the ability to do any one or more of the following acts or things which, for the purposes of this Article, constitute the practice of dentistry:

(1)        Diagnoses, treats, operates, or prescribes for any disease, disorder, pain, deformity, injury, deficiency, defect, or other physical condition of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or adjacent tissues or structures of the oral cavity;

(2)        Removes stains, accretions or deposits from the human teeth;

(3)        Extracts a human tooth or teeth;

(4)        Performs any phase of any operation relative or incident to the replacement or restoration of all or a part of a human tooth or teeth with any artificial substance, material or device;

(5)        Corrects the malposition or malformation of the human teeth;

(6)        Administers an anesthetic of any kind in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity; provided, however, that this subsection shall not apply to a lawfully qualified nurse anesthetist who administers such anesthetic under the supervision and direction of a licensed dentist or physician;

(6a)      Expired pursuant to Session Laws 1991, c. 678, s. 2.

(7)        Takes or makes an impression of the human teeth, gums or jaws;

(8)        Makes, builds, constructs, furnishes, processes, reproduces, repairs, adjusts, supplies or professionally places in the human mouth any prosthetic denture, bridge, appliance, corrective device, or other structure designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition or malformation of a tooth or teeth, except to the extent the same may lawfully be performed in accordance with the provisions of G.S. 90-29.1 and 90-29.2;

(9)        Uses a Roentgen or X-ray machine or device for dental treatment or diagnostic purposes, or gives interpretations or readings of dental Roentgenograms or X rays;

(10)      Performs or engages in any of the clinical practices included in the curricula of recognized dental schools or colleges;

(11)      Owns, manages, supervises, controls or conducts, either himself or by and through another person or other persons, any enterprise wherein any one or more of the acts or practices set forth in subdivisions (1) through (10) above are done, attempted to be done, or represented to be done;

(12)      Uses, in connection with his name, any title or designation, such as "dentist," "dental surgeon," "doctor of dental surgery," "D.D.S.," "D.M.D.," or any other letters, words or descriptive matter which, in any manner, represents him as being a dentist able or qualified to do or perform any one or more of the acts or practices set forth in subdivisions (1) through (10) above;

(13)      Represents to the public, by any advertisement or announcement, by or through any media, the ability or qualification to do or perform any of the acts or practices set forth in subdivisions (1) through (10) above.

(c)        The following acts, practices, or operations, however, shall not constitute the unlawful practice of dentistry:

(1)        Any act by a duly licensed physician or surgeon performed in the practice of his profession;

(2)        The practice of dentistry, in the discharge of their official duties, by dentists in any branch of the Armed Forces of the United States or in the full-time employ of any agency of the United States;

(3)        The teaching or practice of dentistry, in dental schools or colleges operated and conducted in this State and approved by the North Carolina State Board of Dental Examiners, by any person or persons licensed to practice dentistry anywhere in the United States or in any country, territory or other recognized jurisdiction until December 31, 2002. On or after January 1, 2003, all dentists previously practicing under G.S. 90-29(c)(3) shall be granted an instructor's license upon application to the Board and payment of the required fee.

(4)        The practice of dentistry in dental schools or colleges in this State approved by the North Carolina State Board of Dental Examiners by students enrolled in such schools or colleges as candidates for a doctoral degree in dentistry when such practice is performed as a part of their course of instruction and is under direct supervision of a dentist who is either duly licensed in North Carolina or qualified under subdivision (3) above as a teacher; additionally, the practice of dentistry by such students at State or county institutions with resident populations, hospitals, State or county health departments, area health education centers, nonprofit health care facilities serving low-income populations and approved by the State Health Director or his designee and approved by the Board of Dental Examiners, and State or county-owned nursing homes; subject to review and approval or disapproval by the said Board of Dental Examiners when in the opinion of the dean of such dental school or college or his designee, the students' dental education and experience are adequate therefor, and such practice is a part of the course of instruction of such students, is performed under the direct supervision of a duly licensed dentist acting as a teacher or instructor, and is without remuneration except for expenses and subsistence all as defined and permitted by the rules and regulations of said Board of Dental Examiners. Should the Board disapprove a specific program, the Board shall within 90 days inform the dean of its actions. Nothing herein shall be construed to permit the teaching of, delegation to or performance by any dental hygienist, dental assistant, or other auxiliary relative to any program of extramural rotation, of any function not heretofore permitted by the Dental Practice Act, the Dental Hygiene Act or by the rules and regulations of the Board;

(5)        The temporary practice of dentistry by licensed dentists of another state or of any territory or country when the same is performed, as clinicians, at meetings of organized dental societies, associations, colleges or similar dental organizations, or when such dentists appear in emergency cases upon the specific call of a dentist duly licensed to practice in this State;

(6)        The practice of dentistry by a person who is a graduate of a dental school or college approved by the North Carolina State Board of Dental Examiners and who is not licensed to practice dentistry in this State, when such person is the holder of a valid intern permit, or provisional license, issued to him by the North Carolina State Board of Dental Examiners pursuant to the terms and provisions of this Article, and when such practice of dentistry complies with the conditions of said intern permit, or provisional license;

(7)        Any act or acts performed by a dental hygienist when such act or acts are lawfully performed pursuant to the authority of Article 16 of this Chapter 90 or the rules and regulations of the Board promulgated thereunder;

(8)        Activity which would otherwise be considered the practice of dental hygiene performed by students enrolled in a school or college approved by the Board in a board-approved dental hygiene program under the direct supervision of a dental hygienist or a dentist duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of subdivision (3) above;

(9)        Any act or acts performed by an assistant to a dentist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the Board;

(10)      Dental assisting and related functions as a part of their instructions by students enrolled in a course in dental assisting conducted in this State and approved by the Board, when such functions are performed under the supervision of a dentist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of subdivision (3) above;

(11)      The extraoral construction, manufacture, fabrication or repair of prosthetic dentures, bridges, appliances, corrective devices, or other structures designed or constructed as a substitute for a natural human tooth or teeth or as an aid in the treatment of the malposition or malformation of a tooth or teeth, by a person or entity not licensed to practice dentistry in this State, when the same is done or performed solely upon a written work order in strict compliance with the terms, provisions, conditions and requirements of G.S. 90-29.1 and 90-29.2.

(12)      The use of a dental x-ray machine in the taking of dental radiographs by a dental hygienist, certified dental assistant, or a dental assistant who can show evidence of satisfactory performance on an equivalency examination, recognized by the Board of Dental Examiners, based on seven hours of instruction in the production and use of dental x rays and an educational program of not less than seven hours in clinical dental radiology.

(13)      A dental assistant, or dental hygienist who shows evidence of education and training in Nitrous Oxide - Oxygen Inhalant Conscious Sedation within a formal educational program may aid and assist a licensed dentist in the administration of Nitrous Oxide - Oxygen Inhalant Conscious Sedation. Any dental assistant who can show evidence of having completed an educational program recognized by the Board of not less than seven clock hours on Nitrous Oxide - Oxygen Inhalant Conscious Sedation may also aid and assist a licensed dentist in the administration of Nitrous Oxide - Oxygen Inhalant Conscious Sedation. Any dental hygienist or dental assistant who has been employed in a dental office where Nitrous Oxide - Oxygen Inhalant Conscious Sedation was utilized, and who can show evidence of performance and instruction of not less than one year prior to July 1, 1980, qualifies to aid and assist a licensed dentist in the administration of Nitrous Oxide - Oxygen Inhalant Conscious Sedation.

(14)      The operation of a nonprofit health care facility serving low-income populations and approved by the State Health Director or his designee and approved by the North Carolina State Board of Dental Examiners.  (1935, c. 66, s. 6; 1953, c. 564, s. 3; 1957, c. 592, s. 2; 1961, c. 446, s. 2; 1965, c. 163, ss. 1, 2; 1971, c. 755, s. 2; 1977, c. 368; 1979, 2nd Sess., c. 1195, ss. 10, 15; 1991, c. 658, s. 1; c. 678, ss. 1, 2; 1997-481, ss. 5, 6; 2002-37, s. 8; 2011-183, s. 57.)

**§ 90-29.1.  Extraoral services performed for dentists.**

Licensed dentists may employ or engage the services of any  person, firm or corporation to construct or repair, extraorally, prosthetic dentures, bridges, or other replacements for a part of a tooth, a tooth, or teeth. A person, firm, or corporation so employed or engaged, when constructing or repairing such dentures, bridges, or  replacements, exclusively, directly, and solely on the written work order of a licensed member of the dental profession as hereafter provided, and not for the public or any part thereof, shall not be deemed or considered to be practicing dentistry as defined in this Article. (1957, c. 592, s. 3; 1961, c. 446, ss. 3, 4; 1979, 2nd Sess., c. 1195, s. 6.)

**§ 90-29.2.  Requirements in respect to written work orders; penalty.**

(a)        Any licensed dentist who employs or engages the services of any person, firm or corporation to construct or repair, extraorally, prosthetic dentures, bridges, orthodontic appliance, or other replacements, for a part of a tooth, a tooth or teeth, shall furnish such person, firm or corporation with a written work order on forms prescribed by the North Carolina State Board of Dental Examiners which shall contain:

(1)        The name and address of the person, firm, or corporation to which the work order is directed.

(2)        The patient's name or identification number. If a number is used, the patient's name shall be written upon the duplicate copy of the work order retained by the dentist.

(3)        The date on which the work order was written.

(4)        A description of the work to be done, including diagrams if necessary.

(5)        A specification of the type and quality of materials to be used.

(6)        The signature of the dentist and the number of his license to practice dentistry.

(b)        The person, firm or corporation receiving a work order from a licensed dentist shall retain the original work order and the dentist shall retain a duplicate copy thereof for inspection at any reasonable time by the North Carolina State Board of Dental Examiners or its duly authorized agents, for a period of two years in both cases.

(c)        If the person, firm or corporation receiving a written work order from a licensed dentist engages another person, firm or corporation (hereinafter referred to as "subcontractor") to perform some of the services relative to such work order, he or it shall furnish a written subwork order with respect thereto on forms prescribed by the North Carolina State Board of Dental Examiners which shall contain:

(1)        The name and address of the subcontractor.

(2)        A number identifying the subwork order with the original work order, which number shall be endorsed on the work order received from the licensed dentist.

(3)        The date on which the subwork order was written.

(4)        A description of the work to be done by the subcontractor, including diagrams if necessary.

(5)        A specification of the type and quality of materials to be used.

(6)        The signature of the person, firm or corporation issuing the subwork order.

The subcontractor shall retain the subwork order and the issuer thereof shall retain a duplicate copy, attached to the work order received from the licensed dentist, for inspection by the North Carolina State Board of Dental Examiners or its duly authorized agents, for a period of two years in both cases.

(d)       Any licensed dentist who:

(1)        Employs or engages the services of any person, firm or corporation to construct or repair extraorally, prosthetic dentures, bridges, or other dental appliances without first providing such person, firm, or corporation with a written work order; or

(2)        Fails to retain a duplicate copy of the work order for two years; or

(3)        Refuses to allow the North Carolina State Board of Dental Examiners to inspect his files of work orders

is guilty of a Class 1 misdemeanor and the North Carolina State Board of Dental Examiners may revoke or suspend his license therefor.

(e)        Any such person, firm, or corporation, who:

(1)        Furnishes such services to any licensed dentist without first obtaining a written work order therefor from such dentist; or

(2)        Acting as a subcontractor as described in (c) above, furnishes such services to any person, firm or corporation, without first obtaining a written subwork order from such person, firm or corporation; or

(3)        Fails to retain the original work order or subwork order, as the case may be, for two years; or

(4)        Refuses to allow the North Carolina State Board of Dental Examiners or its duly authorized agents, to inspect his or its files of work orders or subwork orders shall be guilty of a Class 1 misdemeanor. (1961, c. 446, s. 5; 1993, c. 539, ss. 617, 618; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 90-29.3.  Provisional license.**

(a)        The North Carolina State Board of Dental Examiners shall, subject to its rules and regulations, issue a provisional license to practice dentistry to any person who is licensed to practice dentistry anywhere in the United States or in any country, territory or other recognized jurisdiction, if the Board shall determine that said licensing jurisdiction imposed upon said person requirements for licensure no less exacting than those imposed by this State. A provisional licensee may engage in the practice of dentistry only in strict accordance with the terms, conditions and limitations of his license and with the rules and regulations of the Board pertaining to provisional license.

(b)        A provisional license shall be valid until the date of the announcement of the results of the next succeeding Board examination of candidates for licensure to practice dentistry in this State, unless the same shall be earlier revoked or suspended by the Board.

(c)        No person who has failed an examination conducted by the North Carolina State Board of Dental Examiners shall be eligible to receive a provisional license.

(d)       Any person desiring to secure a provisional license shall make  application therefor in the manner and form prescribed by the rules and regulations of the Board and shall pay the fee prescribed in G.S.  90-39 of this Article.

(e)        A provisional licensee shall be subject to those various disciplinary measures and penalties set forth in G.S. 90-41 upon a determination of the Board that said provisional licensee has violated any of the terms or provisions of this Article. (1969, c. 804, s. 1.)

**§ 90-29.4.  Intern permit.**

The North Carolina State Board of Dental Examiners may, in the exercise of the discretion of said Board, issue to a person who is not licensed to practice dentistry in this State and who is a graduate of a dental school, college, or institution approved by said Board, an intern permit authorizing such person to practice dentistry under the supervision or direction of a dentist duly licensed to practice in this State, subject to the following particular conditions:

(1)        An intern permit shall be valid for no more than one year from the date the permit was issued. The Board may, in its discretion, renew the permit for not more than five additional one-year periods. However, no person who has attempted and failed a Board-approved written or clinical examination shall be granted an intern permit or intern permits embracing or covering an aggregate time span of more than 72 calendar months. An intern permit holder who has held an unrestricted dental license in a Board-approved state or jurisdiction for the five years immediately preceding the issuance of an intern permit in this State may, in the Board's discretion, have the intern permit renewed for additional one-year periods beyond 72 months if the intern permit holder's approved employing institution comes before the Board on the permit holder's behalf for each subsequent annual renewal;

(2)        The holder of a valid intern permit may practice dentistry only under the supervision or direction of one or more dentists duly licensed to practice in this State;

(3)        The holder of a valid intern permit may practice dentistry only (i) as an employee in a hospital, sanatorium, or a like institution which is licensed or approved by the State of North Carolina and approved by the North Carolina State Board of Dental Examiners; (ii) as an employee of a nonprofit health care facility serving low-income populations and approved by the State Health Director or his designee and approved by the North Carolina State Board of Dental Examiners; or (iii) as an employee of the State of North Carolina or an agency or political subdivision thereof, or any other governmental entity within the State of North Carolina, when said employment is approved by the North Carolina State Board of Dental Examiners;

(4)        The holder of a valid intern permit shall receive no fee or fees or compensation of any kind or nature for dental services rendered by him other than such salary or compensation as might be paid to him by the entity specified in subdivision (3) above wherein or for which said services are rendered;

(5)        The holder of a valid intern permit shall not, during the term of said permit or any renewal thereof, change the place of his internship without first securing the written approval of the North Carolina State Board of Dental Examiners;

(6)        The practice of dentistry by the holder of a valid intern permit shall be strictly limited to the confines of and to the registered patients of the hospital, sanatorium or institution to which he is attached or to the persons officially served by the governmental entity by whom he is employed;

(7)        Any person seeking an intern permit shall first file with the North Carolina State Board of Dental Examiners such papers and documents as are required by said Board, together with the application fee authorized by G.S. 90-39. A fee authorized by G.S. 90-39 shall be paid for any renewal of said intern permit. Such person shall further supply to the Board such other documents, materials or information as the Board may request;

(8)        Any person seeking an intern permit or who is the holder of a valid intern permit shall comply with such limitations as the North Carolina State Board of Dental Examiners may place or cause to be placed, in writing, upon such permit, and shall comply with such rules and regulations as the Board might promulgate relative to the issuance and maintenance of said permit in the practice of dentistry relative to the same;

(9)        The holder of an intern permit shall be subject to the provisions of G.S. 90-41. (1971, c. 755, s. 3; 1997-481, s. 7; 2002-37, s. 10; 2006-41, s. 1.)

**§ 90-29.5.  Instructor's license.**

(a)        The Board may issue an instructor's license to a person who is not otherwise licensed to practice dentistry in this State if the person meets both of the following conditions:

(1)        Is licensed to practice dentistry anywhere in the United States or in any country, territory, or other recognized jurisdiction.

(2)        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; such dental school or academic medical center shall be accredited by the American Dental Association's Commission on Accreditation or the Joint Commission on Accreditation of Health Care Organizations.

(b)        The holder of an instructor's license may teach and practice dentistry:

(1)        In or on behalf of a dental school or college offering a doctoral degree in dentistry operated and conducted in this State and approved by the North Carolina State Board of Dental Examiners;

(2)        In connection with an academic medical center; and

(3)        At any teaching hospital adjacent to a dental school or an academic medical center.

(c)        Application for an instructor's license shall be made in accordance with the rules of the North Carolina State Board of Dental Examiners. On or after January 1, 2003, all dentists previously practicing under G.S. 90-29(c)(3) shall be granted an instructor's license upon application to the Board and payment of the required fee. The holder of an instructor's license shall be subject to the provisions of this Article. (1979, 2nd Sess., c. 1195, s. 11; 2002-37, s. 7.)

**§ 90-30.  Examination and licensing of applicants; qualifications; causes for refusal to grant license; void licenses.**

(a)        The North Carolina State Board of Dental Examiners shall grant licenses to practice dentistry to such applicants who are graduates of a reputable dental institution, who, in the opinion of a majority of the Board, shall undergo a satisfactory examination of proficiency in the knowledge and practice of dentistry, subject, however, to the further provisions of this section and of the provisions of this Article.

The applicant for a license to practice dentistry shall be of good moral character, at least 18 years of age at the time the application is filed. The application for a dental license shall be made to the Board in writing and shall be accompanied by evidence satisfactory to the Board that the applicant is a person of good moral character, has an academic education, the standard of which shall be determined by the Board; that the applicant is a graduate of and has a diploma from a reputable dental college or the dental department of a reputable university or college recognized, accredited and approved as such by the Board; and that the applicant has passed a clinical licensing examination, the standard of which shall be determined by the Board.

The North Carolina State Board of Dental Examiners is authorized to conduct both written or oral and clinical examinations or to accept the results of other Board-approved regional or national independent third-party clinical examinations that shall include procedures performed on human subjects as part of the assessment of restorative clinical competencies and that are determined by the Board to be of such character as to thoroughly test the qualifications of the applicant, and may refuse to grant a license to any person who, in its discretion, is found deficient in the examination. The Board may refuse to grant a license to any person guilty of cheating, deception or fraud during the examination, or whose examination discloses to the satisfaction of the Board, a deficiency in academic or clinical education. The Board may employ such dentists found qualified therefor by the Board, in examining applicants for licenses as it deems appropriate.

The North Carolina State Board of Dental Examiners may refuse to grant a license to any person guilty of a crime involving moral turpitude, or gross immorality, or to any person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in the opinion of the Board, renders the applicant unfit to practice dentistry.

Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

(b)        The Department of Public Safety may provide a criminal record check to the North Carolina State Board of Dental Examiners for a person who has applied for a license through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.  (1935, c. 66, s. 7; 1971, c. 755, s. 4; 1981, c. 751, s. 5; 2002-147, s. 7; 2005-366, s. 1; 2014-100, s. 17.1(o).)

**§ 90-30.1.  Standards for general anesthesia and enteral and parenteral sedation; fees authorized.**

The North Carolina Board of Dental Examiners may establish by regulation reasonable education, training, and equipment standards for safe administration and monitoring of general anesthesia and enteral and parenteral sedation for outpatients in the dental setting. Regulatory standards may include a permit process for general anesthesia and enteral and parenteral sedation by dentists. The requirements of any permit process adopted under the authority of this section shall include provisions that will allow a dentist to qualify for continued use of enteral sedation, if he or she is licensed to practice dentistry in North Carolina and shows the Board that he or she has been utilizing enteral sedation in a competent manner for the five years preceding January 1, 2002, and his or her office facilities pass an on-site examination and inspection by qualified representatives of the Board. For purposes of this section, oral premedication administered for minimal sedation (anxiolysis) shall not be included in the definition of enteral sedation. In order to provide the means of regulating general anesthesia and enteral and parenteral sedation, including examination and inspection of dental offices involved, the Board may charge and collect fees established by its rules for each permit application, each annual permit renewal, and each office inspection in an amount not to exceed the maximum fee amounts set forth in G.S. 90-39. (1987 (Reg. Sess., 1988), c. 1073; 1989, c. 648; 1989 (Reg. Sess., 1990), c. 1066, s. 12(a); 1995 (Reg. Sess., 1996), c. 584, s. 2; 2001-511, s. 1.)

**§ 90-31.  Annual renewal of licenses.**

The laws of North Carolina now in force, having provided for the annual renewal of any license issued by the North Carolina State Board of Dental Examiners, it is hereby declared to be the policy of this State, that all licenses heretofore issued by the North Carolina State Board of Dental Examiners or hereafter issued by said Board are subject to annual renewal and the exercise of any privilege granted by any license heretofore issued or hereafter issued by the North Carolina State Board of Dental Examiners is subject to the issuance on or before the first day of January of each year of a certificate of renewal of license.

On or before the first day of January of each year, each dentist engaged in the practice of dentistry in North Carolina shall make application to the North Carolina State Board of Dental Examiners and receive from said Board, subject to the further provisions of this section and of this Article, a certificate of renewal of said license.

The application shall show the serial number of the applicant's license, his full name, address and the county in which he has practiced during the preceding year, the date of the original issuance of license to said applicant and such other information as the said Board from time to time may prescribe, at least six months prior to January 1 of any year.

If the application for such renewal certificate, accompanied by the fee required by this Article, is not received by the Board before January 31 of each year, an additional fee shall be charged for renewal certificate. The maximum penalty fee for late renewal is set forth in G.S. 90-39. If such application, accompanied by the renewal fee, plus the additional fee, is not received by the Board before March 31 of each year, every person thereafter continuing to practice dentistry without having applied for a certificate of renewal shall be guilty of the unauthorized practice of dentistry and shall be subject to the penalties prescribed by G.S. 90-40. (1935, c. 66, s. 8; 1953, c. 564, s. 5; 1961, c. 446, s. 6; 1971, c. 755, s. 5; 1995 (Reg. Sess., 1996), c. 584, s. 3.)

**§ 90-31.1.  Continuing education courses required.**

All dentists licensed under G.S. 90-30 shall be required to attend Board-approved courses of study in subjects relating to dentistry.  The Board shall have authority to consider and approve courses, or providers of courses, to the end that those attending will gain (i) information on existing and new methods and procedures used by dentists, (ii) information leading to increased safety and competence in their dealings with patients and staff, and (iii) information on other matters, as they develop, that are of continuing importance to the practice of dentistry.  The Board shall determine the number of hours of study within a particular period and the nature of course work required.  The Board may provide exemptions or waivers from continuing education requirements where dentists are receiving alternate learning experiences or where they have limited practices.  The Board shall by regulation define circumstances for exemptions or waivers for dentists who are involved in dental education or training pursuits where they gain experiences equivalent to formal continuing education courses, for those who have reached an advanced age and are semiretired or have otherwise voluntarily restricted their practices in volume and scope, and for such other situations as the Board in its discretion may determine meet the purposes of this section. (1993, c. 307, s. 1.)

**§ 90-32.  Contents of original license.**

The original license granted by the North Carolina State Board of Dental Examiners shall bear a serial number, the full name of the applicant, the date of issuance and shall be signed by the president and the majority of the members of the said Board and attested by the seal of said Board and the secretary thereof. 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. (1935, c. 66, s. 8.)

**§ 90-33.  Displaying license and current certificate of renewal.**

The license and the current certificate of renewal of license to practice dentistry issued, as herein provided, shall at all times be displayed in a conspicuous place in the office of the holder thereof 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 to its authorized agents. (1935, c. 66, s. 8.)

**§ 90-34.  Refusal to grant renewal of license.**

For nonpayment of fee or fees required by this Article, for failure to comply with continuing education requirements adopted by the Board under the authority of G.S. 90-31.1, or for violation of any of the terms or provisions of G.S. 90-41 concerning disciplinary actions, the North Carolina State Board of Dental Examiners may refuse to issue a certificate for renewal of license.  As used in this section, the term "license" includes license, provisional license or intern permit. (1935, c. 66, s. 8; 1971, c. 755, s. 6; 1993, c. 307, s. 2.)

**§ 90-35.  Duplicate licenses.**

When a person is a holder of a license to practice dentistry in North Carolina or the holder of a certificate of renewal of license, he may make application to the North Carolina State Board of Dental Examiners for the issuance of a copy or a duplicate thereof accompanied by a fee that shall not exceed the maximum fee for a duplicate license or certificate set forth in G.S. 90-39. Upon the filing of the application and the payment of the fee, the said Board shall issue a copy or duplicate. (1935, c. 66, s. 8; 1961, c. 446, s. 7; 1995 (Reg. Sess., 1996), c. 584, s. 4.)

**§ 90-36.  Licensing practitioners of other states.**

(a)        The North Carolina State Board of Dental Examiners may issue a license by credentials to an applicant who has been licensed to practice dentistry in any state or territory of the United States if the applicant produces satisfactory evidence to the Board that the applicant has the required education, training, and qualifications, is in good standing with the licensing jurisdiction, has passed satisfactory examinations of proficiency in the knowledge and practice of dentistry as determined by the Board, and meets all other requirements of this section and rules adopted by the Board. The Board may conduct examinations and interviews to test the qualifications of the applicant and may require additional information that would affect the applicant's ability to render competent dental care. The Board may, in its discretion, refuse to issue a license by credentials to an applicant who the Board determines is unfit to practice dentistry.

(b)        The applicant for licensure by credentials shall be of good moral character and shall have graduated from and have a DDS or DMD degree from a program of dentistry in a school or college accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

(c)        The applicant must meet all of the following conditions:

(1)        Has been actively practicing dentistry, as defined in G.S. 90-29(b)(1) through (b)(9), for a minimum of five years immediately preceding the date of application.

(2)        Has not been the subject of final or pending disciplinary action in the Armed Forces of the United States, in any state or territory in which the applicant is or has ever been licensed to practice dentistry, or in any state or territory in which the applicant has held any other professional license.

(3)        Presents evidence that the applicant has no felony convictions and that the applicant has no other criminal convictions that would affect the applicant's ability to render competent dental care.

(4)        Has not failed an examination conducted by the North Carolina State Board of Dental Examiners.

(d)       The applicant for licensure by credentials shall submit an application to the North Carolina State Board of Dental Examiners, the form of which shall be determined by the Board, pay the fee required by G.S. 90-39, successfully complete examinations in Jurisprudence and Sterilization and Infection Control, and meet the criteria or requirements established by the Board.

(e)        The holder of a license issued under this section shall establish a practice location and actively practice dentistry, as defined in G.S. 90-29(b)(1) through (b)(9), in North Carolina within one year from the date the license is issued. The license issued under this section shall be void upon a finding by the Board that the licensee fails to limit the licensee's practice to North Carolina or that the licensee no longer actively practices dentistry in North Carolina. However, when a dentist licensed under this section faces possible Board action to void the dentist's license for failure to limit the dentist's practice to North Carolina, if the dentist demonstrates to the Board that out-of-state practice actions were in connection with formal contract or employment arrangements for the dentist to provide needed clinical dental care to patients who are part of an identified ethnic or racial minority group living in a region of the other state with low access to dental care, the Board, in its discretion, may waive the in-State limitations on the out-of-state practice for a maximum of 12 months.  (1935, c. 66, s. 9; 1971, c. 755, s. 7; 1981, c. 751, s. 6; 2002-37, s. 2; 2009-289, s. 1; 2011-183, s. 58.)

**§ 90-37.  Certificate issued to dentist moving out of State.**

Any dentist duly licensed by the North Carolina State Board of Dental Examiners, desiring to move from North Carolina to another state, territory or foreign country, if a holder of a certificate of renewal of license from said Board, upon application to said Board and the payment to it of the fee in this Article provided, shall be issued a certificate showing his full name and address, the date of license originally issued to him, the date and number of his renewal of license, and whether any charges have been filed with the Board against him. The Board may provide forms for such certificate, requiring such additional information as it may determine proper. (1935, c. 66, s. 10.)

**§ 90-37.1.  Limited volunteer dental license.**

(a)        The North Carolina State Board of Dental Examiners may issue to an applicant a "Limited Volunteer Dental License" to practice dentistry only in nonprofit health care facilities serving low-income populations in the State. Holders of a limited volunteer dental license may volunteer their professional services, without compensation, only for the purpose of helping to meet the dental health needs of these persons served by these facilities. The Board may issue a limited license to an applicant under this section who:

(1)        Has an out-of-state current or expired license, or an expired license in this State, or is authorized to treat veterans of or personnel serving in the Armed Forces of the United States; and

(2)        Has actively practiced dentistry, as defined in G.S. 90-29(b)(1) through (b)(9), within the past five years.

(b)        The limited license may be issued to an applicant who produces satisfactory evidence to the Board that the applicant has the required education, training, and qualifications; is in good standing with the licensing jurisdiction; has passed satisfactory examinations of proficiency in the knowledge and practice of dentistry as determined by the Board; and meets all other requirements of this section and rules adopted by the Board. The Board may conduct examinations and interviews to test the qualifications of the applicant and may require additional information that would affect the applicant's ability to render competent dental care. The Board may, in its discretion, refuse to issue a "limited volunteer dental license" to an applicant who the Board determines is unfit to practice dentistry.

(c)        The applicant shall be of good moral character and shall have graduated from and have a DDS or DMD degree from a program of dentistry in a school or college accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

(d)       The applicant shall meet all of the following conditions:

(1)        Show that the applicant has actively practiced dentistry, as defined in G.S. 90-29(b)(1) through (b)(9), for a minimum of five years.

(2)        Show that the applicant has not been the subject of final or pending disciplinary action in any state in which the applicant has ever been licensed to practice dentistry or in any state in which the applicant has held any other professional license.

(3)        Present evidence that the applicant has no felony convictions and that the applicant has no other criminal convictions that would affect the applicant's ability to render competent care.

(4)        Present evidence that the applicant has no pending Veterans Administration or military disciplinary actions or any history of such disciplinary action.

(5)        Show that the applicant has not failed an examination conducted by the North Carolina State Board of Dental Examiners.

(e)        The applicant shall submit an application, the form of which shall be determined by the Board, pay the fee required under G.S. 90-39, and successfully complete examinations in Jurisprudence and Sterilization and Infection Control. The Board may charge and collect fees for license application and annual renewal as required under G.S. 90-39, except that credentialing fees applicable under G.S. 90-39(13) are waived for holders of a limited volunteer dental license.

(f)        Holders of a limited volunteer dental license shall comply with the continuing dental education requirements adopted by the Board including CPR training.

(g)        The holder of a limited license under this section who practices dentistry other than as authorized in this section shall be guilty of a Class 1 misdemeanor with each day's violation constituting a separate offense. Upon proof of practice other than as authorized in this section, the Board may suspend or revoke the limited license after notice to the licensee. For violations of the dental practice act or rules adopted under the act that are applicable to a limited license practice, the Board has the same authority to investigate and impose sanctions on limited license holders as it has for those holding an unlimited license.

(h)        The Board shall maintain a nonexclusive list of nonprofit health care facilities serving the dental health needs of low-income populations in the State. Upon request, the Board shall consider adding other facilities to the list.

(i)         The Board may adopt rules in accordance with Chapter 150B of the General Statutes to implement this section.  (2002-37, s. 4; 2011-183, s. 59.)

**§ 90-37.2.  Temporary permits for volunteer dentists.**

(a)        The North Carolina State Board of Dental Examiners may issue to a person who is not licensed to practice dentistry in this State and who is a graduate of a Board-approved dental school, college, or institution a temporary volunteer permit authorizing such person to practice dentistry under the supervision or direction of a dentist duly licensed in this State. A temporary volunteer permit shall be issued only to those dentists who are licensed in another Board-approved state or jurisdiction, have never been subject to discipline, and have passed a patient-based clinical examination substantially similar to the clinical examination offered in this State. The issuance of a temporary volunteer permit is subject to the following conditions:

(1)        A temporary volunteer permit shall be valid no more than one year from the date of issue; provided, however, that the Board may renew the permit for additional one-year periods.

(2)        The holder of a temporary volunteer permit may practice only under the supervision or direction of one or more dentists duly licensed to practice in this State.

(3)        The holder of a temporary volunteer permit may practice dentistry only: (i) as a volunteer in a hospital, sanatorium, temporary clinic, or like institution which is licensed or approved by the State of North Carolina and approved by the Board; (ii) as a volunteer for a nonprofit health care facility serving low-income populations and approved by the State Health Director or his designee or approved by the Board; or (iii) as a volunteer for the State of North Carolina or an agency or political subdivision thereof, or any other governmental entity within the State of North Carolina, when such service is approved by the Board.

(4)        The holder of a temporary volunteer permit shall receive no fee or monetary compensation of any kind or nature for any dental service performed.

(5)        The practice of dentistry by the holder of a temporary volunteer permit shall be strictly limited to the confines of and to the registered patients of the hospital, sanatorium, temporary clinic, or approved nonprofit health care facilities for which he is working or to the patients officially served by the governmental entity to which he is offering his volunteer services.

(6)        The holder of a temporary volunteer permit shall be subject to discipline by the Board for those actions constituting the practice of dentistry by G.S. 90-29 occurring while practicing in this State.

(7)        Any person seeking a temporary volunteer permit must file with the Board such proof as is required by the Board to determine if the applicant has a valid unrestricted dental license in another state or jurisdiction, has not been subject to discipline by any licensing board, has a proven record of clinical safety and is otherwise qualified to practice dentistry in this State.

(8)        There shall be no fee associated with the issuance of a temporary volunteer permit for the practice of dentistry.

(b)        The Board is authorized to make rules consistent with this section to regulate the practice of dentistry for those issued a temporary volunteer permit. (2007-346, s. 27.)

**§ 90-38.  Licensing former dentists who have moved back into State or resumed practice.**

Any person who shall have been licensed by the North Carolina State Board of Dental Examiners to practice dentistry in this State who shall have retired from practice or who shall have moved from the State and shall have returned to the State, may, upon a satisfactory showing to said Board of his proficiency in the profession of dentistry and his good moral character during the period of his retirement, be granted by said Board a license to resume the practice of dentistry upon making application to the said Board in such form as it may require. The license to resume practice, after issuance thereof, shall be subject to all the provisions of this Article. (1935, c. 66, s. 11; 1953, c. 564, s. 2.)

**§ 90-39.  Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

(1)       Each application for general dentistry license........................................ $1,200

(2)       Each general dentistry license renewal, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dentist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dentist... 600.00

(2a)     Penalty for late renewal of any license or permit........................................ 100.00

(3)       Each provisional license.............................................................................. 300.00

(4)       Each intern permit or renewal thereof......................................................... 500.00

(5)       Each certificate of license to a resident dentist desiring to change to another state or territory.......................................................................................................... 75.00

(6)       Repealed by Session Laws 1995, (Reg. Sess., 1996), c. 584, s. 1.

(7)       Each license to resume the practice issued to a dentist who has retired from and returned to this State................................................................................................. 500.00

(8)       Each instructor's license or renewal thereof................................................ 500.00

(9)       With each renewal of a dentistry license, an annual fee to help fund special peer review organizations for impaired dentists............................................................. 100.00

(10)     Each duplicate of any license, permit, or certificate issued by the Board.... 75.00

(11)     Each office inspection for general anesthesia and parenteral sedation permits 750.00

(12)     Each general anesthesia and parenteral sedation permit application or renewal of permit                                                                                                                      100.00

(13)     Each application for license by credentials.............................................. 3,000.00

(14)     Each application for limited volunteer dental license................................. 200.00

(15)     Each limited volunteer dental license annual renewal................................... 50.00.

(1935, c. 66, s. 12; 1953, c. 564, s. 1; 1961, c. 446, s. 8; 1965, c. 163, s. 3; 1971, c. 755, s. 8; 1979, 2nd Sess., c. 1195, s. 12; 1987, c. 555, s. 1; 1993, c. 420, s. 1; 1995 (Reg. Sess., 1996), c. 584, s. 1; 2002-37, s. 5; 2003-348, s. 1; 2005-366, s. 2.)

**§ 90-40.  Unauthorized practice; penalty.**

If any person shall practice or attempt to practice dentistry in this State without first having passed the examination and obtained a license from the North Carolina Board of Dental Examiners or having obtained a provisional license from said Board; or if he shall practice dentistry after March 31 of each year without applying for a certificate of renewal of license, as provided in G.S. 90-31; or shall practice or attempt to practice dentistry while his license is revoked, or suspended, or when a certificate of renewal of license has been refused; or shall violate any of the provisions of this Article for which no specific penalty has been provided; or shall practice or attempt to practice, dentistry in violation of the provisions of this Article; or shall practice dentistry under any name other than his own name, said person shall be guilty of a Class 1 misdemeanor.  Each day's violation of this Article shall constitute a separate offense. (1935, c. 66, s. 13; 1953, c. 564, s. 6; 1957, c. 592, s. 4; 1965, c. 163, s. 6; 1969, c. 804, s. 2; 1993, c. 539, s. 619; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 90-40.1.  Enjoining unlawful acts.**

(a)        The practice of dentistry by any person who has not been duly licensed so as to practice or whose license has been suspended or revoked, or the doing, committing or continuing of any of the acts prohibited by this Article by any person or persons, whether licensed dentists or not, is hereby declared to be inimical to public health and welfare and to constitute a public nuisance. The Attorney General for the State of North Carolina, the district attorney of any of the superior courts, the North Carolina State Board of Dental Examiners in its own name, or any resident citizen may maintain an action in the name of the State of North Carolina to perpetually enjoin any person from so unlawfully practicing dentistry and from the doing, committing or continuing of such unlawful act. This proceeding shall be in addition to and not in lieu of criminal prosecutions or proceedings to revoke or suspend licenses as authorized by this Article.

(b)        In an action brought under this section the final judgment, if in favor of the plaintiff, shall perpetually restrain the defendant or defendants from the commission or continuance of the act or acts complained of. A temporary injunction to restrain the commission or continuance thereof may be granted upon proof or by affidavit that the defendant or defendants have violated any of the laws or statutes applicable to unauthorized or unlawful practice of dentistry. The provisions of the statutes or rules relating generally to injunctions as provisional remedies in actions shall apply to such a temporary injunction and the proceedings thereunder.

(c)        The venue for actions brought under this section shall be the superior court of any county in which such acts constituting unlicensed or unlawful practice of dentistry are alleged to have been committed or in which there appear reasonable grounds to believe that they will be committed, in the county where the defendants in such action reside, or in Wake County.

(d)       The plaintiff in such action shall be entitled to examination of the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for the examination of the parties.  (1957, c. 592, s. 5; 1973, c. 47, s. 2; 2012-195, s. 2.)

**§ 90-40.2.  Management arrangements.**

(a)        The following definitions apply in this section:

(1)        Ancillary personnel. - Dental hygienists or dental assistants who assist licensed dentists in providing direct patient care.

(2)        Clinical. - Of or relating to the activities of a dentist as described in G.S. 90-29(b)(1)-(10).

(3)        Management arrangement. - Any one or more agreements or arrangements, alone or together, whether written or oral, between a management company and a dentist or professional entity whereby the management company provides services to assist in the development, promotion, delivery, financing, support, or administration of the dentist's or professional entity's dental practice.

(4)        Management company. - Any individual, business corporation, nonprofit corporation, partnership, limited liability company, limited partnership, or other legal entity that is not a professional entity or dentist which provides through one or more contractual arrangements any combination of management or business support services, including, but not limited to, accounting and financial services; collection, billing, and payment services; file and records maintenance; human resources services; assistance with the acquisition of fixed assets, including the locating and procurement of office space, facilities, and equipment; maintenance of offices, equipment, furniture, and fixtures; marketing and practice development; information technology; compliance with applicable federal, State, and local laws; and clerical services.

(5)        Professional entity. - 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.

(6)        Unlicensed person. - Any person or entity other than a dentist licensed in this State or registered professional entity authorized to provide dental services under this Article.

(b)        A management arrangement executed on or after January 1, 2013, is invalid unless there appears on the instrument evidencing, directly above or below the space or spaces provided for the signature of the parties, in such type size or distinctive marking that it appears more clearly and conspicuously than anything else on the document:

"WARNING - YOU HAVE THE RIGHT AND ARE ENCOURAGED TO HAVE THIS CONTRACT REVIEWED BY YOUR OWN LEGAL COUNSEL PRIOR TO SIGNING."

(c)        No member of the Board shall be subject to examination in connection with any investigation, inquiry, or interview related to the Board's review of any management arrangement.

(d)       For actions brought under G.S. 90-40.1, the venue shall be the superior court of any county in which acts constituting unlicensed or unlawful practice of dentistry are alleged to have been committed or in which there appear reasonable grounds to believe that they will be committed, in the county where at least one defendant in the action resides, or in Wake County.

(e)        If investigative information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed.

(f)        The Board shall cooperate with and assist law enforcement agencies and the district attorney conducting a criminal investigation or prosecution of a licensee or person engaged in the unauthorized practice of dentistry, including a management company, by providing information that is relevant to the criminal investigation or prosecution to the investigating agency or district attorney. Information disclosed by the Board to an investigative agency or district attorney remains confidential and may not be disclosed by the investigating agency except as necessary to further the investigation.

(g)        Nothing in this section shall affect the validity of any of the Board's rules or regulations which were in effect as of the effective date of this section, except to the extent that such rules or regulations directly conflict with the provisions of this section.  (2012-195, s. 1.)

**§ 90-41.  Disciplinary action.**

(a)        The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dentistry; (ii) Refuse to issue a certificate of renewal of a license to practice dentistry; (iii) Revoke or suspend a license to practice dentistry; and (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the Board is satisfied that such applicant or licensee:

(1)        Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;

(2)        Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs his ability to practice dentistry;

(3)        Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;

(4)        Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;

(5)        Has been convicted of or entered a plea of guilty or nolo contendere to any charge of violation of any state or federal narcotic or barbiturate law;

(6)        Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;

(7)        Is mentally, emotionally, or physically unfit to practice dentistry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice dentistry unless or until such person shall have been subsequently lawfully declared to be mentally competent;

(8)        Has conducted in-person solicitation of professional patronage or has employed or procured any person to conduct such solicitation by personal contact with potential patients, except to the extent that informal advice may be permitted by regulations issued by the Board of Dental Examiners;

(9)        Has permitted the use of his name, diploma or license by another person either in the illegal practice of dentistry or in attempting to fraudulently obtain a license to practice dentistry;

(10)      Has engaged in such immoral conduct as to discredit the dental profession;

(11)      Has obtained or collected or attempted to obtain or collect any fee through fraud, misrepresentation, or deceit;

(12)      Has been negligent in the practice of dentistry;

(13)      Has employed a person not licensed in this State to do or perform any act or service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which under this Article or under Article 16 of this Chapter, can lawfully be done or performed only by a dentist or a dental hygienist licensed in this State;

(14)      Is incompetent in the practice of dentistry;

(15)      Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;

(16)      Has made fraudulent or misleading statements pertaining to his skill, knowledge, or method of treatment or practice;

(17)      Has committed any fraudulent or misleading acts in the practice of dentistry;

(18)      Has, directly or indirectly, published or caused to be published or disseminated any advertisement for professional patronage or business which is untruthful, fraudulent, misleading, or in any way inconsistent with rules and regulations issued by the Board of Dental Examiners governing the time, place, or manner of such advertisements;

(19)      Has, in the practice of dentistry, committed an act or acts constituting malpractice;

(20)      Repealed by Session Laws 1981, c. 751, s. 7.

(21)      Has permitted a dental hygienist or a dental assistant in his employ or under his supervision to do or perform any act or acts violative of this Article, or of Article 16 of this Chapter, or of the rules and regulations promulgated by the Board;

(22)      Has wrongfully or fraudulently or falsely held himself out to be or represented himself to be qualified as a specialist in any branch of dentistry;

(23)      Has persistently maintained, in the practice of dentistry, unsanitary offices, practices, or techniques;

(24)      Is a menace to the public health by reason of having a serious communicable disease;

(25)      Has distributed or caused to be distributed any intoxicant, drug or narcotic for any other than a lawful purpose; or

(26)      Has engaged in any unprofessional conduct as the same may be, from time to time, defined by the rules and regulations of the Board.

(b)        If any person engages in or attempts to engage in the practice of dentistry while his license is suspended, his license to practice dentistry in the State of North Carolina may be permanently revoked.

(c)        The Board may, on its own motion, initiate the appropriate legal proceedings against any person, firm or corporation when it is made to appear to the Board that such person, firm or corporation has violated any of the provisions of this Article or of Article 16.

(d)       The Board may appoint, employ or retain an investigator or investigators for the purpose of examining or inquiring into any practices committed in this State that might violate any of the provisions of this Article or of Article 16 or any of the rules and regulations promulgated by the Board.

(e)        The Board may employ or retain legal counsel for such matters and purposes as may seem fit and proper to said Board.

(f)        As used in this section the term "licensee" includes licensees, provisional licensees and holders of intern permits, and the term "license" includes license, provisional license, instructor's license, and intern permit.

(g)        Records, papers, and other documents containing information collected or compiled by the Board, or its members or employees, as a result of investigations, inquiries, or interviews conducted in connection with a licensing or disciplinary matter, shall not be considered public records within the meaning of Chapter 132 of the General Statutes; provided, however, that any notice or statement of charges against any licensee, or any notice to any licensee of a hearing in any proceeding, shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of any investigation, inquiry, or interview; and provided, further, that if any record, paper, or other document containing information collected and compiled by the Board is received and admitted into evidence in any hearing before the Board, it shall then be a public record within the meaning of Chapter 132 of the General Statutes. (1935, c. 66, s. 14; 1957, c. 592, s. 7; 1965, c. 163, s. 4; 1967, c. 451, s. 1; 1971, c. 755, s. 9; 1979, 2nd Sess., c. 1195, ss. 7, 8; 1981, c. 751, s. 7; 1989, c. 442; 1997-456, s. 27; 2002-37, s. 9.)

**§ 90-41.1.  Hearings.**

(a)        With the exception of applicants for license by comity and applicants for reinstatement after revocation, every licensee, provisional licensee, intern, or applicant for license, shall be afforded notice and opportunity to be heard before the North Carolina State Board of Dental Examiners shall take any action, the effect of which would be:

(1)        To deny permission to take an examination for licensing for which application has been duly made; or

(2)        To deny a license after examination for any cause other than failure to pass an examination; or

(3)        To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or

(4)        To suspend a license; or

(5)        To revoke a license; or

(6)        To revoke or suspend a provisional license or an intern permit; or

(7)        To invoke any other disciplinary measures, censure, or probative terms against a licensee, a provisional licensee, or an intern,

such proceedings to be conducted in accordance with the provisions of Chapter 150B of the General Statutes of North Carolina.

(b)        In lieu of or as a part of such hearing and subsequent proceedings, the Board is authorized and empowered to enter any consent order relative to the discipline, censure, or probation of a licensee, provisional licensee, an intern, or an applicant for a license, or relative to the revocation or suspension of a license, provisional license, or intern permit.

(c)        Following the service of the notice of hearing as required by Chapter 150B of the General Statutes, the Board and the person upon whom such notice is served shall have the right to conduct adverse examinations, take depositions, and engage in such further discovery proceedings as are permitted by the laws of this State in civil matters. The Board is hereby authorized and empowered to issue such orders, commissions, notices, subpoenas, or other process as might be necessary or proper to effect the purposes of this subsection; provided, however, that no member of the Board shall be subject to examination hereunder. (1967, c. 451, s. 2; 1969, c. 804, s. 3; 1971, c. 755, s. 10; 1973, c. 1331, s. 3; 1987, c. 827, s. 1.)

**§ 90-42.  Restoration of revoked license.**

Whenever any dentist has been deprived of his license, the North Carolina State Board of Dental Examiners, in its discretion, may restore said license upon due notice being given and hearing had, and satisfactory evidence produced of proper reformation of the licentiate, before restoration. (1935, c. 66, s. 14.)

**§ 90-43.  Compensation and expenses of Board.**

Notwithstanding G.S. 93B-5(a), each member of the North Carolina State Board of Dental Examiners shall receive as compensation for his services in the performance of his duties under this Article a sum not exceeding one hundred dollars ($100.00) for each day actually engaged in the performance of the duties of his office, said per diem to be fixed by said Board, and all legitimate and necessary expenses incurred in attending meetings of the said Board.

The Board is authorized and empowered to expend from funds collected hereunder such additional sum or sums as it may determine necessary in the administration and enforcement of this Article, and employ such personnel as it may deem requisite to assist in carrying out the administrative functions required by this Article and by the Board. (1935, c. 66, s. 15; 1965, c. 163, s. 5; 1971, c. 755, s. 11; 1979, 2nd Sess., c. 1195, s. 9; 1989 (Reg. Sess., 1990), c. 892.)

**§ 90-44.  Annual report of Board.**

Said Board shall, on or before the fifteenth day of February in each year, make an annual report as of the thirty-first day of December of the year preceding, of its proceedings, showing therein the examinations given, the fees received, the expenses incurred, the hearings conducted and the result thereof, which said report shall be filed with the Governor of the State of North Carolina. (1935, c. 66, s. 15.)

**§ 90-45.  Repealed by Session Laws 1967, c. 218, s. 4.**

**§ 90-46.  Filling prescriptions.**

Legally licensed druggists of this State may fill prescriptions of dentists duly licensed by the North Carolina State Board of Dental Examiners. (1935, c. 66, s. 17.)

**§ 90-47.  Repealed by Session Laws 1979, 2nd Sess., c. 1195, s. 13.**

**§ 90-48.  Rules and regulations of Board; violation a misdemeanor.**

The North Carolina State Board of Dental Examiners shall be and is hereby vested, as an agency of the State, with full power and authority to enact rules and regulations governing the practice of dentistry within the State, provided such rules and regulations are not inconsistent with the provisions of this Article.  Such rules and regulations shall become effective 30 days after passage, and the same may be proven, as evidence, by the president and/or the secretary-treasurer of the Board, and/or by certified copy under the hand and official seal of the secretary-treasurer.  A certified copy of any rule or regulation shall be receivable in all courts as prima facie evidence thereof if otherwise competent, and any person, firm, or corporation violating any such rule, regulation, or bylaw shall be guilty of a Class 2 misdemeanor, and each day that this section is violated shall be considered a separate offense.

The Board shall issue every two years to each licensed dentist a compilation or supplement of the Dental Practice Act and the Board rules and regulations, and upon written request therefor by such licensed dentist, a directory of dentists. (1935, c. 66, s. 19; 1957, c. 592, s. 6; 1971, c. 755, s. 12; 1993, c. 539, s. 620; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 90-48.1.  Free choice by patient guaranteed.**

No agency of the State, county or municipality, nor any commission or clinic, nor any board administering relief, social security, health insurance or health service under the laws of the State of North Carolina shall deny to the recipients or beneficiaries of their aid or services the freedom to choose a duly licensed dentist as the provider of care or services which are within the scope of practice of the profession of dentistry as defined in this Chapter. (1965, c. 1169, s. 3.)

**§ 90-48.2.  Board agreements with special peer review organizations for impaired dentists.**

(a)        The State Board of Dental Examiners may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired dentist peer review organizations formed by the North Carolina Dental Society. The organizations shall be made up of Dental Society members designated by the Society, the Board, and the Dental School of the University of North Carolina. Peer review activities to be covered by such agreements shall include investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of dentists licensed by the Board, as such matters may relate to impaired dentists. Special impaired dentist peer review organizations may include a statewide supervisory committee and various regional and local components or subgroups. The statewide supervisory committee shall consist of representatives from the North Carolina Dental Society, the UNC School of Dentistry, and the Board. When the statewide supervisory committee considers activities and programs that relate to impaired dental hygienists pursuant to G.S. 90-48.3, its membership shall be expanded to include two dental hygienists appointed upon the recommendation of the dental hygienist member of the Board.

(b)        Agreements authorized under this section shall include provisions for the impaired dentist peer review organizations to receive relevant information from the Board and other sources, conduct any investigation, review, and evaluation in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the peer review process, make reports of investigations and evaluations to the Board, and to do other related activities for operating and promoting a coordinated and effective peer review process. The agreements shall include provisions assuring basic due process for dentists that become involved.

(c)        The impaired dentist peer review organizations that enter into agreements with the Board shall establish and maintain a program for impaired dentists licensed by the Board for the purpose of identifying, reviewing and evaluating the ability of those dentists to function as dentists, and to provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired dentist peer review programs. The Board shall adopt rules to apply to the operation of impaired dentist peer review programs, with provisions for: definitions of impairment; guidelines for program elements; procedures for receipt and use of information of suspected impairment; procedures for intervention and referral; arrangements for monitoring treatment, rehabilitation, posttreatment support and performance; reports of individual cases to the Board; periodic reporting of statistical information; and assurance of confidentiality of nonpublic information and of the peer review process.

(d)       Upon investigation and review of a dentist licensed by the Board, or upon receipt of a complaint or other information, an impaired dentist peer review organization that enters into a peer review agreement with the Board shall report immediately to the Board detailed information about any dentist licensed by the Board, if:

(1)        The dentist constitutes an imminent danger to the public or himself;

(2)        The dentist 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.

(e)        Impaired dentist peer review organizations operating pursuant to this section shall have the same protections and responsibilities as traditional State and local dental society peer review committees under Article 2A of this Chapter. In addition, any confidential patient information and other nonpublic information acquired, created, or used in good faith by an impaired dentist peer review organization pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case. No person participating in good faith in an impaired dentist peer review program developed under this section shall be required in a civil case to disclose any information (including opinions, recommendations, or evaluations) acquired or developed solely in the course of participating in the program.

(f)        Impaired dentist peer review activities conducted in good faith pursuant to any program developed under this section shall not be grounds for civil action under the laws of this State, and the activities are deemed to be State directed and sanctioned and shall constitute "State action" for the purposes of application of antitrust laws. (1993, c. 420, s. 2; 1999-382, s. 4.)

**§ 90-48.3.  Board authority to include impaired dental hygienists in programs developed for impaired dentists.**

The Board may enter into agreements with special impaired dentist peer review organizations to include programs for impaired dental hygienists, and the provisions of G.S. 90-48.2 shall apply to any such agreements and programs. Special impaired dentist peer review organizations shall have the authority to appoint to the organizations, upon the recommendation of the dental hygienist member of the Board, one additional member who is a licensed dental hygienist and the member shall participate in activities and programs as they relate to impaired dental hygienists. Peer liaisons and volunteers participating in programs for impaired dental hygienists shall be dental hygienists. Dental hygienists who work with special impaired dentist peer review organizations in conducting programs for impaired dental hygienists shall have the same protections and responsibilities as members of traditional State and local dental society peer review committees under Article 2A of this Chapter and as provided in G.S. 90-48.2. The provisions of G.S. 90-48.2 regarding confidentiality shall also be applicable to all dental hygienist activities authorized under this section. (1999-382, s. 1.)

**§§ 90-48.4 through 90-48.6.  Reserved for future codification purposes.**

Article 2A. Dental Peer Review Protection Act.

**§ 90-48.7.  Title.**

General Statutes 90-48.7 through G.S. 90-48.11 may be cited as the "Dental Peer Review Protection Act." (1979, 2nd Sess., c. 1192, s. 1.)

**§ 90-48.8.  Immunity of a member.**

No member of a dental peer review committee of a State or local dental society shall be held liable in damages to any person for any action taken or recommendation made within the scope of the functions of that committee, except with regard to Medicare and Medicaid charges or payments if the committee member acts without malice and in reasonable belief that the action or recommendation was warranted by the facts known to him after reasonable effort to obtain the facts of the matter as to which the action was taken or recommendation was made. (1979, 2nd Sess., c. 1192, s. 1.)

**§ 90-48.9.  Immunity of witnesses before dental peer review committee.**

Notwithstanding any other provision of law, no person providing information to any dental peer review committee or organization shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law unless:

(1)        The information is unrelated to the performance of the duty or function of the peer review committee or organization, or

(2)        The information is false, and the person providing the information knew, or had good reason to believe that the information was false. (1979, 2nd Sess., c. 1192, s. 1.)

**§ 90-48.10.  Confidentiality of review organization's proceedings and records.**

The proceedings and records of a dental review committee except those concerning the investigation and consideration of Medicare and Medicaid charges or payments, shall be held in confidence and shall not be subject to discovery or introduction into evidence in any civil action arising out of the matters which are the subject of evaluation and review by the committee; and no person who was in attendance at a meeting of the committee shall be permitted or required to testify in any civil action as to any evidence or other matters produced or presented during the proceedings of the committee or as to any findings, recommendations, evaluations, opinions, or other actions of the committee or any members thereof, except with regard to Medicare and Medicaid charges or payments: Provided, however, that information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil action merely because they were presented during proceedings of a committee, nor should any person who testifies before a committee or who is a member of a committee be prevented from testifying as to matters within his knowledge, but the witness shall not be asked about his testimony before a committee or opinions formed by him as a result of the committee hearings, except with regard to Medicare and Medicaid charges or payments. (1979, 2nd Sess., c. 1192, s. 1.)

**§ 90-48.11.  No limitation on previous privileges and immunities.**

Nothing in this G.S. 90-48.7 through G.S. 90-48.11 shall be deemed to annul, abridge, or limit in any manner any privileges or immunities heretofore existing under the laws of this State. (1979, 2nd Sess., c. 1192, s. 1.)

 Article 16. Dental Hygiene Act.

**§ 90-221.  Definitions.**

(a)        "Dental hygiene" as used in this Article shall mean the performance of the following functions: Complete oral prophylaxis, application of preventive agents to oral structures, exposure and processing of radiographs, administration of medicaments prescribed by a licensed dentist, preparation of diagnostic aids, and written records of oral conditions for interpretation by the dentist, together with such other and further functions as may be permitted by rules and regulations of the Board not inconsistent herewith.

(b)        "Dental hygienist" as used in this Article, shall mean any person who is a graduate of a Board-accredited school of dental hygiene, who has been licensed by the Board, and who practices dental hygiene as prescribed by the Board.

(c)        "License" shall mean a certificate issued to any applicant upon completion of requirements for admission to practice dental hygiene.

(d)       "Renewal certificate" shall mean the annual certificate of renewal of license to continue practice of dental hygiene in the State of North Carolina.

(e)        "Board" shall mean "The North Carolina State Board of Dental Examiners" created by Chapter 139, Public Laws of 1879, and Chapter 178, Public Laws of 1915 as continued in existence by G.S. 90-22.

(f)        "Supervision" as used in this Article shall mean that acts 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, except those acts performed under direction and in compliance with G.S. 90-233(a) or G.S. 90-233(a1), and such acts are being performed pursuant to the dentist's order, control and approval. (1945, c. 639, s. 1; 1971, c. 756, s. 1; 1981, c. 824, s. 1; 2007-124, s. 1.)

**§ 90-222.  Administration of Article.**

The Board is hereby vested with the authority and is charged with the duty of administering the provisions of this Article. (1945, c. 639, s. 2.)

**§ 90-223.  Powers and duties of Board.**

(a)        The Board is authorized and empowered to:

(1)        Conduct examinations for licensure,

(2)        Issue licenses and provisional licenses,

(3)        Issue annual renewal certificates,

(4)        Renew expired licenses, and

(5)        Contract with a regional or national testing agency to conduct clinical examinations. Prior to entering a contract with a regional or national testing agency, the Board shall evaluate the agency based on the following criteria:

a.         The number of states that recognize the results of the testing agency's examination.

b.         The cost to the applicant of the examination.

c.         How long the testing agency has been conducting examinations.

d.         Whether the examination includes procedures performed on human subjects as part of the assessment of clinical competencies.

(b)        The Board shall have the authority to make or amend rules and regulations not inconsistent with this Article governing the practice of dental hygiene and the granting, revocation and suspension of licenses and provisional licenses of dental hygienists.

(1)        Any rule adopted under this Article shall be distributed to all licensed dentists and all licensed dental hygienists within 30 days of final approval by the Board.

(2)        The Board shall issue every two years a compilation or supplement of the Dental Hygiene Act and the Board rules and regulations, and, upon written request therefor, a directory of dental hygienists to each licensed dentist and dental hygienist.

(c)        The Board shall keep on file in its office at all times a complete record of the names, addresses, license numbers and renewal certificate numbers of all persons entitled to practice dental hygiene in this State.

(d)       The Board shall, in addition to any other requirements for Board approval of a school or program of dental hygiene for purposes of this Article, require that any school or program in North Carolina develop and implement a procedure for advanced placement of potentially qualified persons. This procedure shall be designed to encourage and allow credit for any person who has attained special capabilities in dental work through military service, on-the-job training or working experience, or other means not otherwise qualifying the person to be immediately eligible for licensure. The procedure shall include these elements: public announcement of the procedure, a method for persons who have special capabilities through training or experience to make application to the school or program for advanced placement, personal counseling on obtaining advanced placement, administration of specially prepared written and clinical examinations for all parts of the curriculum otherwise required for graduation, exemption from course requirements when results of the examinations so indicate, and appropriate modification of curriculum requirements, when necessary, to facilitate individual advancement in education programs. The procedure for advanced placement shall not be approved by the Board unless it is fairly designed to facilitate the substitution of military or civilian training and experience for regular curricula, taking into account that the special nature of military and certain civilian training and experience may be equivalent without necessarily being identical to the courses of the school or program.

(e)        The Board shall have the authority to provide for programs for impaired dental hygienists as authorized in G.S. 90-48.3. (1945, c. 639, s. 3; 1971, c. 756, s. 2; 1973, c. 871, s. 2; 1979, 2nd Sess., c. 1195, s. 14; 1987, c. 827, s. 1; 1999-382, s. 2; 2000-189, s. 7; 2006-235, s. 1.)

**§ 90-224.  Examination.**

(a)        The applicant for licensure must be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or unit authorized to issue the same, and be a graduate of a program of dental hygiene in a school or college approved by the Board.

(b)        The Board shall have the authority to establish in its rules and regulations:

(1)        The form of application;

(2)        The time and place of examination;

(3)        The type of examination;

(4)        The qualifications for passing the examination.

(b1)      The Board also may grant a license to an applicant who is found to have passed an examination given by a Board-approved regional or national dental hygiene testing agency, provided that the Board deems the regional or national examination to be substantially equivalent to or an improvement upon the examination given by the Board, and the applicant meets the other qualifications set forth in this Article.

(c)        The Department of Public Safety may provide a criminal record check to the Board for a person who has applied for a new or renewal license through the Board. The Board shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.  (1945, c. 639, s. 4; 1971, c. 756, s. 3; 2002-147, s. 10; 2006-235, s. 2; 2014-100, s. 17.1(o).)

**§ 90-224.1.  Licensure by credentials.**

(a)        The Board may issue a license by credentials to an applicant who has been licensed to practice dental hygiene in any state or territory of the United States if the applicant produces satisfactory evidence to the Board that the applicant has the required education, training, and qualifications; is in good standing with the licensing jurisdiction; has passed the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations; has passed satisfactory examinations of proficiency in the knowledge and practice of dental hygiene as determined by the Board; and meets all other requirements of this section and rules adopted by the Board. The Board may, in its discretion, refuse to issue a license by credentials to an applicant who the Board determines is unfit to practice dental hygiene.

(b)        The applicant for licensure shall be of good moral character, have graduated from an accredited high school or hold a high school equivalency certificate duly issued by a governmental agency or authorized unit, and have graduated from a dental hygiene program or school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

(c)        The applicant must meet all of the following conditions:

(1)        Has been actively practicing dental hygiene, as defined in G.S. 90-221, under the supervision of a licensed dentist for a minimum of two years immediately preceding the date of application.

(2)        Has no history of disciplinary action or pending disciplinary action in the Armed Forces of the United States or in any state or territory in which the applicant is or has ever been licensed.

(3)        Has no felony convictions and has no other criminal convictions that would affect the applicant's ability to render competent dental hygiene care.

(4)        Has not failed a licensure examination administered by the North Carolina State Board of Dental Examiners.

(d)       The applicant for licensure by credentials shall submit an application, the form of which shall be determined by the Board, pay the fee required by G.S. 90-232, successfully complete examinations in Jurisprudence and Sterilization and Infection Control, and meet other criteria or requirements established by the Board, which may include an examination or interview before the Board or its authorized agents.

(e)        This section shall not be construed to include licensure by reciprocity, which is prohibited.  (2002-37, s. 3; 2011-183, s. 65.)

**§ 90-225.  License issue and display.**

(a)        The Board shall issue licenses to examinees who pass the Board's examination.

(b)        The Board shall determine:

(1)        The method and time of notifying successful candidates,

(2)        The time and form for issuing licenses, and

(3)        The place license must be displayed. (1945, c. 639, s. 5; 1971, c. 756, s. 4.)

**§ 90-225.1.  Continuing education courses required.**

All dental hygienists licensed under G.S. 90-225 shall be required to attend Board-approved courses of study in subjects relating to dental hygiene.  The Board shall have authority to consider and approve courses, or providers of courses, to the end that those attending will gain (i) information on existing and new methods and procedures used by dental hygienists, (ii) information leading to increased safety and competence in their dealings with patients and supervising dentists, and (iii) information on other matters, as they develop, that are of continuing importance to the practice of dental hygiene as a part of the practice of dentistry.  The Board shall determine the number of hours of study within a particular period and the nature of course work required.  Failure to comply with continuing education requirements adopted under the authority of this section shall be grounds for the Board to decline to issue a renewal certificate under G.S. 90-227. (1993, c. 307, s. 3.)

**§ 90-226.  Provisional license.**

(a)        The North Carolina State Board of Dental Examiners shall, subject to its rules and regulations, issue a provisional license to practice dental hygiene to any person who is licensed to practice dental hygiene anywhere in the United States, or in any country, territory or other recognized jurisdiction, if the Board shall determine that said licensing jurisdiction imposed upon said person requirements for licensure no less exacting than those imposed by this State. A provisional licensee may engage in the practice of dental hygiene only in strict accordance with the terms, conditions and limitations of her license and with the rules and regulations of the Board pertaining to provisional license.

(b)        A provisional license shall be valid until the date of the announcement of the results of the next succeeding Board examination of candidates for licensure to practice dental hygiene in this State,  unless the same shall be earlier revoked or suspended by the Board.

(c)        No person who has failed an examination conducted by the North Carolina State Board of Dental Examiners shall be eligible to receive a provisional license.

(d)       Any person desiring to secure a provisional license shall make  application therefor in the manner and form prescribed by the rules and regulations of the Board and shall pay the fee prescribed in G.S.  90-232.

(e)        A provisional licensee shall be subject to those various disciplinary measures and penalties set forth in G.S. 90-229 upon a determination of the Board that said provisional licensee has violated any of the terms or provisions of this Article. (1971, c. 756, s. 5; 1975, c. 19, s. 5.)

**§ 90-227.  Renewal certificates.**

(a)        The Board shall issue annual renewal certificates to licensed dental hygienists.

(b)        The Board shall have the authority to establish in its rules and regulations:

(1)        The form of application for renewal certificates;

(2)        The time the application must be submitted;

(3)        The type of certificate to be issued;

(4)        How the certificate must be displayed;

(5)        The penalty for late application;

(6)        The automatic loss of license if applications are not submitted. (1945, c. 639, s. 6; 1971, c. 756, s. 6.)

**§ 90-228.  Renewal of license.**

The Board shall have the authority to renew the license of a dental hygienist who fails to obtain a renewal certificate for any year provided she

(1)        Makes application for a renewal of license and

(2)        Meets the qualifications established by the Board. (1945, c.  639, s. 7; 1971, c. 756, s. 7.)

**§ 90-229.  Disciplinary measures.**

(a)        The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dental hygiene; (ii) Refuse to issue a certificate of renewal to practice dental hygiene; (iii) Revoke or suspend a license to practice dental hygiene; [and] (iv) Invoke such other disciplinary measures, censure or probative terms against a licensee as it deems proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

(1)        Has engaged in any act or acts of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license or the renewal thereof;

(2)        Has been convicted of any of the criminal provisions of this Article or has entered a plea of guilty or nolo contendere to any charge or charges arising therefrom;

(3)        Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;

(4)        Is a chronic or persistent user of intoxicants, drugs or narcotics to the extent that the same impairs her ability to practice dental hygiene;

(5)        Is incompetent in the practice of dental hygiene;

(6)        Has engaged in any act or practice violative of any of the provisions of this Article or violative of any of the rules and regulations promulgated and adopted by the Board, or has aided, abetted or assisted any other person or entity in the violation of the same;

(7)        Has practiced any fraud, deceit or misrepresentation upon the public or upon any individual in an effort to acquire or retain any patient or patients;

(8)        Has made fraudulent or misleading statements pertaining to her skill, knowledge, or method of treatment or practice;

(9)        Has committed any fraudulent or misleading acts in the practice of dental hygiene;

(10)      Has, in the practice of dental hygiene, committed an act or acts constituting malpractice;

(11)      Has employed a person not licensed in this State to do or perform any act or service, or has aided, abetted or assisted any such unlicensed person to do or perform any act or service which cannot lawfully be done or performed by such person;

(12)      Has engaged in any unprofessional conduct as the same may be from time to time, defined by the rules and regulations of the Board;

(13)      Is mentally, emotionally, or physically unfit to practice dental hygiene or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice dental hygiene unless or until such person shall have been subsequently lawfully declared to be mentally competent.

(b)        As used in this section the term "licensee" includes licensees and provisional licensees and the term "license" includes licenses and provisional licenses. (1945, c. 639, s. 8; 1971, c. 756, s. 8; 1997-456, s. 27.)

**§ 90-230.  Certificate upon transfer to another state.**

Any dental hygienist duly licensed by the North Carolina State Board of Dental Examiners, desiring to move from North Carolina  to another state, territory or foreign country, if a holder of a certificate of renewal of license from said Board, upon application to said Board and the payment to it of the fee in this Article provided, shall be issued a certificate showing her full name and address, the date of license originally issued to her, the date and number of her renewal of license, and whether any charges have been filed with the Board against her. The Board may provide forms for such certificate, requiring such additional information as it may determine proper. (1971, c. 756, s. 10.)

**§ 90-231.  Opportunity for licensee or applicant to have hearing.**

(a)        With the exception of applicants for reinstatement after revocation, every applicant for a license or provisional license to practice dental hygiene or licensee or provisional licensee to practice dental hygiene shall after notice have an opportunity to be heard before the North Carolina State Board of Dental Examiners shall take any action the effect of which would be:

(1)        To deny permission to take an examination for licensing for which application has been duly made; or

(2)        To deny a license after examination for any cause other than failure to pass an examination; or

(3)        To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or

(4)        To suspend a license; or

(5)        To revoke a license; or

(6)        To revoke or suspend a provisional license; or

(7)        To invoke any other disciplinary measures, censure or probative terms against a licensee or provisional licensee,

such proceedings to be conducted in accordance with the provisions of Chapter 150B of the General Statutes of North Carolina.

(b)        In lieu of or as a part of such hearing and subsequent proceedings the Board is authorized and empowered to enter any consent order relative to the discipline, censure, or probation of a licensee, provisional licensee or an applicant for a license or provisional license, or relative to the revocation or suspension of a license or provisional license.

(c)        Following the service of the notice of hearing as required by Chapter 150B of the General Statutes, the Board and the person upon whom such notice is served shall have the right to conduct adverse examinations, take depositions, and engage in such further discovery proceedings as are permitted by the laws of this State in civil matters. The Board is hereby authorized and empowered to issue such orders, commissions, notices, subpoenas, or other process as might be necessary or proper to effect the purposes of this subsection; provided, however, that no member of the Board shall be subject to examination hereunder. (1945, c. 639, s. 10; 1967, c. 489, s. 1; 1971, c. 756, s. 11; 1973, c. 1331, s. 3; 1987, c. 827, s. 1.)

**§ 90-232.  Fees.**

(a)        In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

(1)       Each applicant for examination............................................................ $350.00

(2)       Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist................................................................. 250.00

(3)       Each restoration of license..................................................................... 150.00

(4)       Each provisional license......................................................................... 150.00

(5)       Each certificate of license to a resident dental hygienist desiring to change to another state or territory..................................................................... 50.00

(6)       Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists.................................................................. 80.00

(7)       Each license by credentials ................................................................. 1,500.

(b)        In all instances where the Board uses the services of a regional or national testing agency for preparation, administration, or grading of examinations, the Board may require applicants to pay the actual cost of the testing agency in lieu of the fee authorized in subdivision (a)(1) of this section.

(c)        In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentist program. All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article. (1945, c. 639, s. 11; 1965, c. 163, s. 7; 1967, c. 489, s. 2; 1971, c. 756, s. 12; 1987, c. 555, s. 2; 1999-382, s. 3; 2002-37, s. 6; 2003-348, s. 2; 2006-235, s. 3.)

**§ 90-233.  Practice of dental hygiene.**

(a)        A dental hygienist may practice only under the supervision of one or more licensed dentists. This subsection shall be deemed to be complied with in the case of dental hygienists employed by or under contract with a local health department or State government dental public health program and especially trained by the Dental Health Section of the Department of Health and Human Services as public health hygienists, while performing their duties for the persons officially served by the local health department or State government program under the direction of a duly licensed dentist employed by that program or by the Dental Health Section of the Department of Health and Human Services.

(a1)      A dental hygienist who has three years of experience in clinical dental hygiene or a minimum of 2,000 hours performing primarily prophylaxis or periodontal debridement under the supervision of a licensed dentist, who completes annual CPR certification, who completes six hours each year of Board-approved continuing education in medical emergencies in addition to the requirements of G.S. 90-225.1, and who is designated by the employing dentist as being capable of performing clinical hygiene procedures without the direct supervision of the dentist, may perform one or more dental hygiene functions as described in G.S. 90-221(a) without a licensed dentist being physically present if all of the following conditions are met:

(1)        A licensed dentist directs in writing the hygienist to perform the dental hygiene functions.

(2)        The licensed dentist has personally conducted an evaluation of the patient which shall include a complete oral examination of the patient, a thorough analysis of the patient's health history, a diagnosis of the patient's condition, and a specific written plan for treatment.

(3)        The dental hygiene functions directed to be performed in accordance with this subsection shall be conducted within 120 days of the dentist's evaluation.

(4)        The services are performed in nursing homes; rest homes; long-term care facilities; rural and community clinics operated by Board-approved nonprofits; rural and community clinics operated by federal, State, county, or local governments; and any other facilities identified by the Office of Rural Health and approved by the Board as serving dental access shortage areas.

(a2)      A dental hygienist shall not establish or operate a separate care facility that exclusively renders dental hygiene services.

(a3)      A dental hygienist who has been disciplined by the Board may not practice outside the direct supervision of a dentist under G.S. 90-233(a1). A dentist who has been disciplined by the Board may not allow a hygienist to work outside of that dentist's direct supervision under G.S. 90-233(a1).

(a4)      Each dentist who chooses to order dental hygiene services under G.S. 90-233(a1) shall report annually to the Board the number of patients who were treated outside the direct supervision of the dentist, the location in which the services were performed by the hygienist, and a description of any adverse circumstances which occurred during or after the treatment, if any. The dentist's report shall not identify hygienists or patients by name or any other identifier.

(a5)      Clinical dental hygiene services shall be provided in compliance with both CDC and OSHA standards for infection control and patient treatment.

(b)        A dentist in private practice may not employ more than two dental hygienists at one and the same time who are employed in clinical dental hygiene positions.

(c)        Dental hygiene may be practiced only by the holder of a license or provisional license currently in effect and duly issued by the Board. The following acts, practices, functions or operations, however, shall not constitute the practice of dental hygiene within the meaning of this Article:

(1)        The teaching of dental hygiene in a school or college approved by the Board in a board-approved program by an individual licensed as a dental hygienist in any state in the United States.

(2)        Activity which would otherwise be considered the practice of dental hygiene performed by students enrolled in a school or college approved by the Board in a board-approved dental hygiene program under the direct supervision of a dental hygienist or a dentist duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3), acting as an instructor.

(3)        Any act or acts performed by an assistant to a dentist licensed to practice in this State when said act or acts are authorized and permitted by and performed in accordance with rules and regulations promulgated by the Board.

(4)        Dental assisting and related functions as a part of their instructions by students enrolled in a course in dental assisting conducted in this State and approved by the Board, when such functions are performed under the supervision of a dentist acting as a teacher or instructor who is either duly licensed in North Carolina or qualified for the teaching of dentistry pursuant to the provisions of G.S. 90-29(c)(3). (1945, c. 639, s. 12; 1971, c. 756, s. 13; 1973, c. 476, s. 128; 1981, c. 824, ss. 2, 3; 1989, c. 727, s. 219(6a); 1997-443, s. 11A.23; 1999-237, s. 11.65; 2007-124, s. 2.)

**§ 90-233.1.  Violation a misdemeanor.**

Any person who shall violate, or aid or abet another in violating, any of the provisions of this Article shall be guilty of a Class 1 misdemeanor. (1945, c. 639, s. 13; 1971, c. 756, s. 14; 1993, c. 539, s. 642; 1994, Ex. Sess., c. 24, s. 14(c).)

**Chapter 93B. Occupational Licensing Boards.**

**§ 93B-1.  Definitions.**

As used in this Chapter:

"License" means any license (other than a privilege license), certificate, or other evidence of qualification which an individual is required to obtain before he may engage in or represent himself to be a member of a particular profession or occupation.

"Occupational licensing board" means any board, committee, commission, or other agency in North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation,  and which is authorized to issue licenses; "occupational licensing board" does not include State agencies, staffed by full-time State employees, which as a part of their regular functions may issue licenses. (1957, c. 1377, s. 1.)

**§ 93B-2.  Annual reports required; contents; open to inspection; sanction for failure to report.**

(a)        No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

(1)        The address of the board, and the names of its members and officers.

(1a)      The total number of licensees supervised by the board.

(2)        The number of persons who applied to the board for examination.

(3)        The number who were refused examination.

(4)        The number who took the examination.

(5)        The number to whom initial licenses were issued.

(5a)      The number who failed the examination.

(6)        The number who applied for license by reciprocity or comity.

(7)        The number who were granted licenses by reciprocity or comity.

(7a)      The number of official complaints received involving licensed and unlicensed activities.

(7b)      The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.

(8)        The number of licenses suspended or revoked.

(9)        The number of licenses terminated for any reason other than failure to pay the required renewal fee.

(10)      The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

(11)      The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

(b)        No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.

(c)        The reports required by this section shall be open to public inspection.

(d)       The Joint Legislative Administrative Procedure Oversight Committee shall notify any board that fails to file the reports required by this section. Failure of a board to comply with the reporting requirements of this section by October 31 of each year shall result in a suspension of the board's authority to expend any funds until such time as the board files the required reports. Suspension of a board's authority to expend funds under this subsection shall not affect the board's duty to issue and renew licenses or the validity of any application or license for which fees have been tendered in accordance with law. Each board shall adopt rules establishing a procedure for implementing this subsection and shall maintain an escrow account into which any fees tendered during a board's period of suspension under this subsection shall be deposited.  (1957, c. 1377, s. 2; 1969, c. 42; 2006-70, s. 1; 2007-323, s. 23.2; 2009-125, s. 2; 2011-291, ss. 2.19, 2.20; 2014-120, s. 4.)

**§ 93B-3.  Register of persons licensed; information as to licensed status of individuals.**

Each occupational licensing board shall prepare a register of all persons currently licensed by the board and shall supplement said register annually by listing the changes made in it by reason of new licenses issued, licenses revoked or suspended, death, or any other cause. The board shall, upon request of any citizen of the State, inform the requesting person as to the licensed status of any individual. (1957, c. 1377, s. 3.)

**§ 93B-4.  Audit of Occupational Licensing Boards; payment of costs.**

(a)        The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

(b)        Each occupational licensing board with a budget of at least fifty thousand dollars ($50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor.  (1957, c. 1377, s. 4; 1965, c. 661; 1973, c. 1301; 1983, c. 913, s. 11; 2009-125, s. 3; 2012-142, s. 17.1.)

**§ 93B-5.  Compensation, employment, and training of board members.**

(a)        Board members shall receive as compensation for their services per diem not to exceed one hundred dollars ($100.00) for each day during which they are engaged in the official business of the board.

(b)        Board members shall be reimbursed for all necessary travel expenses in an amount not to exceed that authorized under G.S. 138-6(a) for officers and employees of State departments. Actual expenditures of board members in excess of the maximum amounts set forth in G.S. 138-6(a) for travel and subsistence may be reimbursed if the prior approval of the State Director of Budget is obtained and such approved expenditures are within the established and published uniform standards and criteria of the State Director of Budget authorized under G.S. 138-7 for extraordinary charges for hotels, meals, and convention registration for State officers and employees, whenever such charges are the result of required official business of the Board.

(c)        Repealed by Session Laws 1981, c. 757, s. 2.

(d)       Except as provided herein board members shall not be paid a salary or receive any additional compensation for services rendered as members of the board.

(e)        Board members shall not be permanent, salaried employees of said board.

(f)        Repealed by Session Laws 1975, c. 765, s. 1.

(g)        Within six months of a board member's initial appointment to the board, and at least once within every two calendar years thereafter, a board member shall receive training, either from the board's staff, including its legal advisor, or from an outside educational institution such as the School of Government of the University of North Carolina, on the statutes governing the board and rules adopted by the board, as well as the following State laws, in order to better understand the obligations and limitations of a State agency:

(1)        Chapter 150B, The Administrative Procedure Act.

(2)        Chapter 132, The Public Records Law.

(3)        Article 33C of Chapter 143, The Open Meetings Act.

(4)        Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The Defense of State Employees Law.

(5)        Subchapter II of Chapter 163A, Ethics and Lobbying.

(6)        Repealed.

Completion of the training requirements contained in Subchapter II of Chapter 163A of the General Statutes satisfies the requirements of subdivision (5) of this subsection.  (1957, c. 1377, s. 5; 1973, c. 1303, s. 1; c. 1342, s. 1; 1975, c. 765, s. 1; 1981, c. 757, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 1011, s. 1; 2009-125, s. 4; 2017-6, s. 3.)

**§ 93B-6.  Use of funds for lobbying prohibited.**

Occupational licensing boards shall not use any funds to promote or oppose in any manner the passage by the General Assembly of any legislation. (1973, c. 1302.)

**§ 93B-7.  Rental of state-owned office space.**

Any occupational licensing board, which financially operates on the licensing fees charged and also occupies state-owned office space, shall pay rent, in a reasonable amount to be determined by the Governor, to the State for the occupancy of such space. (1973, c. 1300.)

**§ 93B-8.  Examination procedures.**

(a)        Each applicant for an examination given by any occupational licensing board shall be informed in writing or print of the required grade for passing the examination prior to the taking of such examination.

(b)        Each applicant for an examination given by any occupational licensing board shall be identified, for purposes of the examination, only by number rather than by name.

(c)        Each applicant who takes an examination given by any occupational licensing board, and does not pass such examination, shall have the privilege to review his examination in the presence of the board or a representative of the board. Except as provided in this subsection, an occupational licensing board shall not be required to disclose the contents of any examination or of any questions which have appeared thereon, or which may appear thereon in the future.

(d)       Notwithstanding the provisions of this section, under no circumstances shall an occupational licensing board be required to disclose to an applicant questions or answers to tests provided by recognized testing organizations pursuant to contracts which prohibit such disclosures. (1973, c. 1334, s. 1; 1991, c. 360, s. 1.)

**§ 93B-8.1.  Use of criminal history records.**

(a)        The following definitions apply in this section:

(1)        Applicant. - A person who makes application for licensure from an occupational licensing board.

(2)        Board. - An occupational licensing board as defined in G.S. 93B-1.

(3)        Criminal history record. - A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or a licensee's fitness to be licensed or disciplined.

(4)        Licensee. - A person who has obtained a license to engage in or represent himself or herself to be a member of a particular profession or occupation.

(b)        Unless the law governing a particular occupational licensing board provides otherwise, a board shall not automatically deny licensure on the basis of an applicant's criminal history. If the board is authorized to deny a license to an applicant on the basis of conviction of any crime or for commission of a crime involving fraud or moral turpitude, and the applicant's verified criminal history record reveals one or more convictions of any crime, the board may deny the license if it finds that denial is warranted after consideration of the following factors:

(1)        The level and seriousness of the crime.

(2)        The date of the crime.

(3)        The age of the person at the time of the crime.

(4)        The circumstances surrounding the commission of the crime, if known.

(5)        The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.

(6)        The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.

(7)        The subsequent commission of a crime by the applicant.

(8)        Any affidavits or other written documents, including character references.

(c)        The board may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

(d)       This section does not apply to The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission.  (2013-24, s. 1.)

**§ 93B-8.2.  Prohibit licensees from serving as investigators.**

No occupational licensing board shall contract with or employ a person licensed by the board to serve as an investigator or inspector if the licensee is actively practicing in the profession or occupation and is in competition with other members of the profession or occupation over which the board has jurisdiction. Nothing in this section shall prevent a board from (i) employing licensees who are not otherwise employed in the same profession or occupation as investigators or inspectors or for other purposes or (ii) contracting with licensees of the board to serve as expert witnesses or consultants in cases where special knowledge and experience is required, provided that the board limits the duties and authority of the expert witness or consultant to serving as an information resource to the board and board personnel.  (2015-286, s. 1.5.)

**§ 93B-9.  Age requirements.**

Except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license with the following exceptions: the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission may establish a higher age as a requirement for holding certification through either Commission.  (1973, c. 1356; 2010-97, s. 8; 2010-122, s. 27.)

**§ 93B-10.  Expiration of term of appointment of board member.**

A board member serving on an occupational and professional  licensing board whose term of appointment has expired shall continue to serve until a successor is appointed and qualified. (1973, c. 1373, s. 1.)

**§ 93B-11.  Interest from State Treasurer's Investment Program.**

Any interest earned by an occupational licensing board under G.S. 147-69.3(d) may be used only for the following purposes:

(1)        To reduce fees;

(2)        Improve services offered to licensees and the public; or

(3)        For educational purposes to benefit licensees or the public.  (1983, c. 515, s. 2.)

**§ 93B-12.  Information from licensing boards having authority over health care providers.**

(a)        Every occupational licensing board having authority to license physicians, physician assistants, nurse practitioners, and nurse midwives in this State shall modify procedures for license renewal to include the collection of information specified in this section for each board's regular renewal cycle. The purpose of this requirement is to assist the State in tracking the availability of health care providers to determine which areas in the State suffer from inequitable access to specific types of health services and to anticipate future health care shortages which might adversely affect the citizens of this State. Occupational licensing boards shall collect, report, and update the following information:

(1)        Area of health care specialty practice;

(2)        Address of all locations where the licensee practices; and

(3)        Other information the occupational licensing board deems relevant to assisting the State in achieving the purpose set out in this section, including social security numbers for research purposes only in matching other data sources.

(b)        Every occupational licensing board required to collect information pursuant to subsection (a) of this section shall report and update the information on an annual basis to the Department of Health and Human Services. The Department shall provide this information to programs preparing primary care physicians, physicians assistants, and nurse practitioners upon request by the program and by the Board of Governors of The University of North Carolina. Information provided by the occupational licensing board pursuant to this subsection may be provided in such form as to omit the identity of the health care licensee. (1995, c. 507, s. 23A.4; 1996, 2nd Ex. Sess., c. 17, s. 16.4; 1997-443, s. 11A.118(a).)

**§ 93B-13.  Revocation when licensing privilege forfeited for nonpayment of child support or for failure to comply with subpoena.**

(a)        Upon receipt of a court order, pursuant to G.S. 50-13.12 and G.S. 110-142.1, revoking the occupational license of a licensee under its jurisdiction, an occupational licensing board shall note the revocation in its records, report the action within 30 days to the Department of Health and Human Services, and follow the normal postrevocation rules and procedures of the board as if the revocation had been ordered by the board. The revocation shall remain in effect until the board receives certification by the clerk of superior court or the Department of Health and Human Services in an IV-D case that the licensee is no longer delinquent in child support payments, or, as applicable, that the licensee is in compliance with or is no longer subject to the subpoena that was the basis for the revocation.

(b)        Upon receipt of notification from the Department of Health and Human Services that a licensee under an occupational licensing board's jurisdiction has forfeited the licensee's occupational license pursuant to G.S. 110-142.1, then the occupational licensing board shall send a notice of intent to revoke or suspend the occupational license of that licensee as provided by G.S. 110-142.1(d). If the license is revoked as provided by the provisions of G.S. 110-142.1, the revocation shall remain in effect until the board receives certification by the designated representative or the child support enforcement agency that the licensee is no longer delinquent in child support payments, or, as applicable, that the licensee is in compliance with or no longer subject to a subpoena that was the basis for the revocation.

(c)        If at the time the court revokes a license pursuant to subsection (a) of this section, or if at the time the occupational licensing board revokes a license pursuant to subsection (b) of this section, the occupational licensing board has revoked the same license under the licensing board's disciplinary authority over licensees under its jurisdiction, and that revocation period is greater than the revocation period resulting from forfeiture pursuant to G.S. 50-13.12 or G.S. 110-142.1 then the revocation period imposed by the occupational licensing board applies.

(d)       Immediately upon certification by the clerk of superior court or the child support enforcement agency that the licensee whose license was revoked pursuant to subsection (a) or (b) of this section is no longer delinquent in child support payments, the occupational licensing board shall reinstate the license. Immediately upon certification by the clerk of superior court or the child support enforcement agency that the licensee whose license was revoked because of failure to comply with a subpoena is in compliance with or no longer subject to the subpoena, the occupational licensing board shall reinstate the license. Reinstatement of a license pursuant to this section shall be made at no additional cost to the licensee. (1995, c. 538, s. 1.3; 1997-433, s. 5.4; 1997-443, s. 11A.118(a); 1998-17, s. 1; 2003-288, s. 2.)

**§ 93B-14.  Information on applicants for licensure.**

Every occupational licensing board shall require applicants for licensure to provide to the Board the applicant's social security number. This information shall be treated as confidential and may be released only as follows:

(1)        To the State Child Support Enforcement Program of the Department of Health and Human Services upon its request and for the purpose of enforcing a child support order.

(2)        To the Department of Revenue for the purpose of administering the State's tax laws. (1997-433, s. 4.6; 1997-443, s. 11A-122; 1998-17, s. 1; 1998-162, s. 9.)

**§ 93B-15.  Payment of license fees by members of the Armed Forces; board waiver rules.**

(a)        An individual who is serving in the Armed Forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of time to pay any license fee charged by an occupational licensing board as a condition of retaining a license granted by the board. The extension is for the same period that would apply if the license fee were a tax.

(b)        Occupational licensing boards shall adopt rules to postpone or waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating to the maintenance of licensure by an individual who is currently licensed by and in good standing with the board, is serving in the Armed Forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return.  (1998-95, s. 8; 1999-337, s. 12; 2009-458, s. 1; 2011-183, s. 68.)

**§ 93B-15.1.  Licensure for individuals with military training and experience; proficiency examination; licensure by endorsement for military spouses; temporary license.**

(a)        Except as provided by subsection (a2) of this section, and notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

(1)        Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the occupational licensing board from which the applicant is seeking licensure, certification, or registration in this State: completed a military program of training, completed testing or equivalent training and experience, and performed in the occupational specialty.

(2)        Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the occupational licensing board in this State for at least two of the five years preceding the date of the application under this section.

(3)        Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed and has no pending complaints.

(4)        Repealed by Session Laws 2017-28, s. 3, effective July 1, 2017, and applicable to applications submitted on or after that date.

(a1)      No later than 30 days following receipt of an application, an occupational licensing board shall notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and shall specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination.

(a2)      An occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if the military-trained applicant, upon application to the occupational licensing board:

(1)        Presents official, notarized documentation, such as a U.S. Department of Defense Form 214 (DD-214), or similar substantiation, attesting to the applicant's military occupational specialty certification and experience in an occupational field within the board's purview; and

(2)        Passes a proficiency examination offered by the board to military-trained applicants in lieu of satisfying the conditions set forth in subsection (a) of this section; however, if an applicant fails the proficiency examination, then the applicant may be required by the board to satisfy those conditions.

In any case where a proficiency examination is not offered routinely by an occupational licensing board, the board shall design a fair proficiency examination for military-trained applicants to obtain licensure, certification, or registration under this section. If a proficiency examination is offered routinely by an occupational licensing board, that examination shall satisfy the requirements of this section.

(b)        Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in this State if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

(1)        Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(2)        Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section.

(3)        Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.

(4)        Is in good standing; has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit; and has no pending complaints.

(5)        Repealed by Session Laws 2017-28, s. 3, effective July 1, 2017, and applicable to applications submitted on or after that date.

(c)        All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) or (b) of this section.

(c1)      Each occupational licensing board shall publish a document that lists the specific criteria or requirements for licensure, registration, or certification by the board, with a description of the criteria or requirements that are satisfied by military training or experience as provided in this section, and any necessary documentation needed for obtaining the credit or satisfying the requirement. The information required by this subsection shall be published on the occupational licensing board's Web site and the Web site of the Department of Military and Veterans Affairs.

(d)       A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by an occupational licensing board in this State.

(e)        Nothing in this section shall be construed to apply to the practice of law as regulated under Chapter 84 of the General Statutes.

(f)        An occupational licensing board shall issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupation licensing board in this State. The temporary permit shall remain valid for the later of one year or the required renewal date for the occupation the temporary practice permit was issued for or until a license, certification, or registration is granted by the occupational licensing board.

(g)        An occupational licensing board may adopt rules necessary to implement this section.

(h)        Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification, or registration requirements established by an occupational licensing board in this State.

(i)         For the purposes of this section, the State Board of Education shall be considered an occupational licensing board when issuing teacher licenses under Article 17E of Subchapter V of Chapter 115C of the General Statutes.

(j)         For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board.

(k)        An occupational licensing board shall not charge a military-trained applicant or a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check.  (2012-196, s. 1; 2014-67, s. 1; 2015-143, s. 1; 2015-241, s. 24.1(r); 2015-268, s. 7.3(a); 2017-28, s. 3; 2017-189, s. 6(a).)

**§ 93B-16.  Occupational board liability for negligent acts.**

(a)        An occupational licensing board may purchase commercial insurance of any kind to cover all risks or potential liability of the board, its members, officers, employees, and agents, including the board's liability under Articles 31 and 31A of Chapter 143 of the General Statutes.

(b)        Occupational licensing boards shall be deemed State agencies for purposes of Articles 31 and 31A of Chapter 143 of the General Statutes, and board members and employees of occupational licensing boards shall be considered State employees for purposes of Articles 31 and 31A of Chapter 143 of the General Statutes. To the extent an occupational licensing board purchases commercial liability insurance coverage in excess of one hundred fifty thousand dollars ($150,000) per claim for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-299.4 shall not apply. To the extent that an occupational licensing board purchases commercial insurance coverage for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-300.6(c) shall not apply.

(c)        The purchase of insurance by an occupational licensing board under this section shall not be construed to waive sovereign immunity or any other defense available to the board, its members, officers, employees, or agents in an action or contested matter in any court, agency, or tribunal. The purchase of insurance by an occupational licensing board shall not be construed to alter or expand the limitations on claims or payments established in G.S. 143-299.2 or limit the right of board members, officers, employees, or agents to defense by the State as provided by G.S. 143-300.3. (2002-168, s. 1.)

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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**

*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; Repealed Eff. September 1, 2013.*

**SUBCHAPTER 16B - LICENSURE DENTISTS SECTION .0100 - GENERAL PROVISIONS**

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

(a) All persons desiring to practice dentistry in North Carolina are required to pass a Board approved, as set forth in these Rules, written and clinical examinations before receiving a license.  
(b) The examination requirement does not apply to persons who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules .1001 and .1002 of this Subchapter.

(c) All persons practicing dentistry in North Carolina shall maintain current CPR certification at all times.

*History Note: Authority G.S. 90-21.107; 90-28; 90-30; 90-36; 90-38; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; September 1, 2013; March 1, 2006; May 1, 1991; May 1, 1989; January 1, 1983;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

*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;*

*Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

**SECTION .0200 - QUALIFICATIONS**

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

(a) An applicant for licensure as a dentist shall 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 apply 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, and passing Board approved written and clinical examinations, as set out in these Rules.

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; August 1, 2009; March 1, 2006; May 1, 1989; October 1, 1986; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

Applications for a dental license shall be accepted from students currently enrolled in schools of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association. Applications shall be automatically denied if the applicant fails to complete the required course of study or fails a Board approved licensure examination.

*History Note: Authority G.S. 90-28; 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. March 1, 2006; September 26, 1977;  
Amended Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 shall be made on the forms furnished by the Board at www.ncdentalboard.org and no application shall be deemed complete that does not set forth all the required information. Incomplete applications will be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days. Applicants shall ensure that official transcripts of undergraduate college and dental school are sent in a sealed envelope to the Board office.

(b) The nonrefundable application fee shall accompany the application.  
(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.  
(d) A photograph of the applicant, taken within six months prior to the date of the application, shall be affixed to the application.  
(e) 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. The form and card are available from the Board office.  
(f) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule .0303(b) of this Subchapter, if applicable. The examination requirement does not apply to individuals who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules .1001 or .1002 of this Subchapter.  
(g) All applicants shall include a statement disclosing and explaining periods within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program.

*History Note: Authority G.S. 90-28; 90-30; 90-39; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; March 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 .0317 of this Section.

(b) All applicants for dental licensure shall achieve passing scores on Parts I and II of the Dental National Board examination administered by the Joint Commission on National Dental Examinations and written and clinical examinations administered by the Board or Board approved testing agencies.  
(c) Test development agencies shall 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 clinical periodontics and at least three of the following subject matter areas:

(A)  endodontics, clinical abilities testing;

(B)  amalgam preparation and restoration;

(C)  anterior composite preparation and restoration;

(D)  posterior ceramic or composite preparation and restoration;

(E)  prosthetics, written or clinical abilities testing;

(F)  oral diagnosis, written or clinical abilities testing; or

(G)  oral surgery, written or clinical abilities testing; and

(4)  provide the following:

(A)  anonymity between applicants and examination graders;

(B)  standardization and calibration of graders;

(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 for each subject area tested;

(F)  an annual review of the examination;

(G)  a task analysis performed at least once every seven years, which surveys dentists nationwide to determine the content of the examination;

(H)  a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and

(I)  does not permit a dental instructor to grade candidates at any institution at which the instructor is employed.

(e) The Board shall accept examination scores for 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. Individuals who apply more than five years after the examination date to seek licensure must re-take the examination.  
(f) The applicant shall comply with all requirements of the testing agency in applying for and taking the examination.  
(g) The Board shall determine which examinations meet the criteria set out in Paragraph (d) of this Rule.

*History Note: Authority G.S. 90-30; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; June 1, 2009; March 1, 2006; August 1, 1998; March 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

**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**

*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.*

*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 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.

(b) 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.  
(c) 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;*

*Amended Eff. September 1, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

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

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

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

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

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

*Amended Eff. February 1, 2008; Repealed Eff. September 1, 2014.*

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

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

*Repealed Eff. September 1, 2014.*

**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 non-refundable 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 5,000 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 U.S. territory;

(4)  a statement disclosing and explaining any investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;

(5)  a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to any hospital or treatment facility, 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 a current CPR certificate; 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 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 verifying that the applicant 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)  a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and a full, fair and accurate disclosure of 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 shall 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 by Rule .0303 of this Subchapter. The examination shall be administered by the dental professional regulatory board or a regional testing agency. 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 periodontics and at least three of the following subject areas:

(i)  endodontics, clinical abilities testing;

(ii)  amalgam preparation and restoration;

(iii)  anterior composite preparation and restoration;

(iv)  posterior ceramic or composite preparation and restoration;

(v)  prosthetics, written or clinical abilities testing;

(vi)  oral diagnosis, written or clinical abilities testing; or

(vii)  oral surgery, written or clinical abilities. testing; and

(B)  state that licensure examinations after January 1, 1998 included:

(i)  anonymity between candidates and examination graders;

(ii)  standardization and calibration of graders; 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 shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications 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. The forms are available at the Board office.

(e) An applicant for dental licensure by credentials must pass 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. An applicant who fails the written examination may retake it two additional times during a one year period. The applicant shall wait at least 72 hours before attempting to retake a written examination. Individuals who fail the clinical examination or do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.

(f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required at the time of each reapplication.  
(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. September 1, 2014; February 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 non-refundable 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 1,000 hours per year of clinical care directly to patients for at least 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)  a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to a hospital or treatment facility, 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 CPR certification card.

(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)  official transcripts verifying that the applicant graduated from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;

(2)  a 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 shall 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 as set out in Rule .0303 of this Subchapter, conducted by a regional testing agency or a state licensing board.

(c) All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications 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. The forms are available at the Board.

(e) An applicant for limited volunteer dental license must pass 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. An applicant who fails the written exam may retake it two additional times during a one year period. The applicant shall wait a minimum of 72 hours before attempting to retake a written examination. Applicants who fail the clinical examination or who do not pass the written examination after three attempts in one year may not reapply for a limited volunteer dental license.

(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;  
Amended Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 at www.ncdentalboard.org.

(2)  the non-refundable instructor's licensure fee;

(3)  a photograph of the applicant, taken within six months prior to the date of the application, affixed to the application;

(4)  a signed release form and completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office;

(5)  a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;

(6)  a statement disclosing and explaining periods within the last ten years of any voluntary or involuntary commitment to any hospital or treatment facility, 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; and

(7)  a current CPR card.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an instructor's license shall ensure the submission to the Board office of 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)  a 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 shall submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and

(5)  a 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 shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications shall be returned to the applicant.  
(d) Any applicant who changes his or her address shall notify the Board office within 10 business days.  
(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, as set out in 21 NCAC 16R .0102.

*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;  
Amended Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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, with a photograph of the applicant taken within six months of the application date attached;

(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, during the effective period of the permit 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 shall 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. Incomplete applications shall be returned to the applicant.  
(c) To renew the Temporary Volunteer Dental License the licensee shall submit the information required in Subparagraphs (a)(2) – (4) of this Rule, along with an affidavit stating that the information on the original application is correct and requires no update or correction.

(d) All required information shall be completed and received in the Board office as a complete package at least two weeks prior to the renewal of the license. Incomplete applications shall be returned to the applicant. The applicant shall 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; 90-37.2;  
Eff. February 1, 2008;  
Amended Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

**21 NCAC 16B .0901 DEFINITIONS**

The following definitions apply only to this Section;

(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, revoked or subject to a probationary order.

*History Note: Authority G.S. 90-28; 93B-15;  
Eff. April 1, 2010;  
Amended Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .1000 - LICENSURE BY MILITARY ENDORSEMENT**

**21 NCAC 16B .1001 DENTAL LICENSURE BY ENDORSEMENT BASED ON MILITARY SERVICE**

(a) An applicant for a dental license by endorsement based on military service shall submit to the Board:

(1)  a completed, signed and notarized application form provided by the Board at www.ncdentalboard.org;

(2)  the application fee required by Rule 16M .0101(a)(14) of this Chapter;

(3)  written evidence demonstrating that the applicant has been awarded a military occupational specialty in dentistry and that the applicant:

(A)  has completed a military program of training substantially equivalent to or greater than that required for licensure as a dentist in North Carolina;

(B)  has completed testing or equivalent training and experience substantially equivalent to or greater than that required for licensure as a dentist in North Carolina, as set forth in G.S. 90-30; and

(C)  has engaged in the active practice of dentistry as defined by G.S. 90-29(b)(1) for at least 1,500 hours per year during at least two of the five years preceding the date of application; and

(4)  a statement disclosing and explaining the commission of any act set out in G.S. 90-41(a) or (b), any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.  
(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card, obtained from the Board.

*History Note: Authority G.S. 90-30(b); 90-41; 93B-15.1; Eff. September 1, 2013;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16B .1002 DENTAL LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE**

(a) An applicant for a dental license by endorsement based on the applicant's status as a military spouse shall submit to the Board:

(1)  a completed, signed and notarized application form provided by the Board at www.ncdentalboard.org ;

(2)  the non-refundable application fee required by Rule 16M .0101(a)(14) of this Chapter;

(3)  written evidence demonstrating that the applicant is married to an active member of the U.S. military and that such applicant:

(A)  holds a current dental license from another jurisdiction whose standards for licensure are substantially equivalent to or greater than those required for licensure as a dentist in North Carolina as set forth in these Rules; and

(B)  has engaged in the active practice of dentistry as defined by G.S. 90-29(b)(1) for at least 1,500 hours per year during at least two of the five years preceding the date of application; and

(4)  a statement disclosing and explaining the commission of an act set out in G.S. 90-41(a) or (b), any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(5)  a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to any hospital or treatment facility, 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 a current CPR certification;

(7)  a report from the National Practitioner Data Bank; and

(8)  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.

(b) All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.  
(c) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card and other forms required to perform a criminal history check. The form and cards may be obtained from the Board.

*History Note: Authority G.S. 90-30(b); 90-41; 90-36; 93B-15.1;  
Eff. September 1, 2013;  
Amended Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .1100 - REINSTATEMENT**

**21 NCAC 16B .1101 PROOF OF COMPETENCY**

(a) All applications for reinstatement shall be submitted on forms furnished by the Board at www.ncdentalboard.org and no application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant.  
(b) The application for reinstatement shall be accompanied by:

(1)  the non-refundable reinstatement fee;

(2)  two letters of character reference from non-family members;

(3)  a current report from the National Practitioner Databank;

(4)  proof of completion of continuing education courses in clinical patient care from Board-approved sponsors, as defined in Rule 16R .0104 of this Chapter in amounts equal to the hours required for renewal of a dental license; and

(5)  a copy of current CPR card.

(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.  
(d) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year 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. The form and card are available from the Board office.

(e) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for two to five years may be required, at the Board's discretion, to take refresher courses on topics specified by the Board. Refresher courses may be required if the Board determines, based upon the facts of the case, that the applicant may lack skills or knowledge to practice dentistry competently. Refresher courses for individuals whose licenses have been revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher courses for individuals whose licenses have been inactive or lapsed shall take into account the amount of time the license has been inactive or lapsed and the individual's level of experience.

(f) Applicants seeking reinstatement of a North Carolina dental license that has been revoked, suspended, inactive or lapsed for more than five years must successfully pass the clinical examination given to first-time applicants before applying for reinstatement.  
(g) Any applicant who changes his or her address shall notify the Board office within 10 business days.

*History Note: Authority G.S. 90-30; 90-41; Eff. September 1, 2014;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16C - LICENSURE DENTAL HYGIENISTS SECTION .0100 - GENERAL PROVISIONS**

**21 NCAC 16C .0101 LICENSURE**

(a) All dental hygienists shall be licensed by the North Carolina State Board of Dental Examiners before practicing dental hygiene in this state.  
(b) The examination requirement does not apply to persons who do not hold a North Carolina dental hygiene license who are seeking volunteer licenses pursuant to G.S. 90-21.107 or license by endorsement pursuant to Rules 16G .0107 or .0108 of this Chapter.

(c) All dental hygienists shall maintain current CPR certification at all times.

*History Note: Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; September 1, 2013; June 1, 2006; May 1, 1989; January 1, 1983;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

*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;*

*Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

**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. Applications shall automatically be denied if the applicant fails to complete the required course of study or fails a Board approved licensure examination.

*History Note:*

*Authority G.S. 90-223; 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; June 1, 2006; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 at www.ncdentalboard.org and no application shall be deemed complete that does set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days. Applicants shall ensure that proof of graduation from high school or its equivalent is sent to the Board office in a sealed envelope. Applicants shall also ensure that an official final transcript from a dental hygiene program as set forth in G.S. 90-224 is sent in a sealed envelope to the Board office. (b) The nonrefundable application fee shall accompany the application.

(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from 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, shall be affixed to the application.  
(d) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office.

(e) All applicants shall arrange for and ensure the submission to the Board office the examination scores required by Rule .0303 of this Subchapter. The examination requirement does not apply to individuals who do not hold a North Carolina dental hygiene license who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules 16G .0107 or 16G .0108 of this Chapter.

(f) All applicants must include a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dental hygienists or other impaired professionals program.

(g) All applicants for dental hygiene licensure shall achieve a passing score on the Dental Hygiene National Board examination administered by the Joint Commission on National Dental Examinations.

*History Note: Authority G.S. 90-223; 90-224; 90-229(a)(4);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; September 1, 2013; June 1, 2006; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 .0311 of this Section.  
(b) All applicants for dental hygiene licensure shall achieve passing scores on written and clinical examinations administered by Board approved testing agencies.

(c) Clinical testing agencies shall 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; and

(4)  provide the following:

(A)  anonymity between applicants and examination graders;

(B)  standardization and calibration of graders;

(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 for each subject area tested;

(F)  an annual review of the examination;

(G)  a task analysis performed once every seven years that surveys dentists nationwide 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)  does not permit a dental hygiene instructor to grade candidates at any institution at which the instructor is employed on a full time basis.

(e) The Board shall accept examination scores for five years following the date of the examination. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores. Individuals who apply for licensure more than five years after the examination date must re-take the examination.  
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.  
(f) The Board shall specify the agencies that will conduct Board approved licensure examinations.

*History Note: Authority G.S. 90-224;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. September 1, 2014; June 1, 2009; June 1, 2006; May 1, 1989; March 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16C .0304 OTHER REQUIREMENTS**

**21 NCAC 16C .0305 TIME FOR FILING**

**21 NCAC 16C .0306 EXAMINATIONS**

**21 NCAC 16C .0307 CLINICAL EXAMINATION**

**21 NCAC 16C .0308 SUPPLIES**

**21 NCAC 16C .0309 PATIENT**

**21 NCAC 16C .0310 REEXAMINATION**

*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.*

**21 NCAC 16C .0311 REEXAMINATION**

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

(b) Any applicant who failed the written 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. The applicant shall wait at least 72 hours before attempting to retake the written examination. If the applicant does not pass the written portion of the examination upon the second reexamination, the applicant shall retake the written and clinical portions of the examination upon subsequent reexamination.

(c) Any applicant who 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 being admitted for reexamination.

*History Note: Authority G.S. 90-223; 90-224; Eff. September 1, 2014;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

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

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

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

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

*History Note: Authority G.S. 90-223; 90-224; 90-224.1; Eff. June 1, 2006;*

*Amended Eff. July 1, 2010; February 1, 2008; Repealed Eff. September 1, 2014.*

**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 nonrefundable 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)  a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to a hospital or treatment facility, 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 a current CPR certificate.  
(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 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 dental hygienist 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)  a certificate of the applicant's licensure status from the regulatory authority or other occupational or professional regulatory authority and a full, fair and accurate disclosure of 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;

(5)  a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant shall 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 as set out in Rule .0303 of this Subchapter.

(c) All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications 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. The forms are available from the Board office.

(e) An applicant for dental hygiene licensure by credentials shall pass written examinations and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails the written examinations, the applicant may retake the examination two additional times during a one year period, as required by Rule .0311 of this Subchapter. Applicants who fail the clinical examination or who do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.

(f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required at the time of reapplication.  
(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; 90-229;  
Temporary Adoption Eff. January 1, 2003;  
Eff. January 1, 2004;  
Recodified from Rule .0401 Eff. June 1, 2006;  
Amended Eff. September 1, 2014; February 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0600 – REINSTATEMENT OF DENTAL HYGIENE LICENSE**

**21 NCAC 16C .0601 PROOF OF COMPETENCY**

(a) All applications for reinstatement shall be made on the forms furnished by the Board at www.ncdentalboard.org and no application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days.

(b) The reinstatement fee shall accompany the application.  
(c) All applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for more than five years must successfully pass the clinical examination given to first-time applicants before seeking reinstatement.

(d) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for two to five years may, at the Board's discretion, be required to take refresher courses as specified by the Board. Refresher courses may be required if the Board determines, based upon the facts of the case, that the applicant may lack skills or knowledge to practice dental hygiene competently. Refresher courses for individuals whose licenses have been revoked or suspended shall relate to the deficiencies that led to the imposition of discipline. Refresher courses for individuals whose licenses have been inactive or lapsed shall take into account the amount of time the license has been inactive or lapsed and the individual's level of experience.

(e) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.  
(f) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year 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 for reinstatement. The form and card are available from the Board office.

(g) Applicants shall provide proof of continuing education in clinical patient care, by Board-approved sponsors, equal to the number of hours currently required for the renewal of a dental hygiene license and current CPR certification.  
(h) Two letters of character reference from non-family members.

(i) A report from the National Practitioner Databank.

*History Note: Authority G.S. 90-223; 90-224; 90-229;  
Eff. September 1, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

*Readopted Eff. September 26, 1977; Repealed Eff. September 1, 2014.*

**21 NCAC 16D .0104 APPLICATION**

(a) All applications for provisional licensure shall be made on the forms furnished by the Board at www.ncdentalboard.org. No application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board within 10 business days. Applicants shall ensure that official transcripts of undergraduate college and dental school credits are sent in a sealed envelope to the Board office.

(b) The nonrefundable application fee shall accompany the application, along with a photograph of the applicant taken within six months of the date of the application.  
(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.

(d) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office.  
(e) All applicants shall include a statement disclosing and explaining periods, within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, for observation, assessment or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program.

*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. December 1, 2014; January 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16D .0105 EXAMINATION**

*History Note: Authority G.S. 90-29.3;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2002;  
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

**SECTION .0200 – EXAMINATIONS 21 NCAC 16D .0201 CLINICAL EXAMINATION**

*History Note: Authority G.S. 90-28; 90-29.5; 90-48; Eff. January 1, 1983;*

*Repealed Eff. September 1, 2009.*

**21 NCAC 16D .0202 ORAL EXAMINATION**

*History Note: Authority G.S. 90-28; 90-29.5; 90-48; Eff. January 1, 1983;*

*Repealed Eff. October 1, 1986.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16E .0103 APPLICATION**

(a) All applications for provisional licensure shall be made on the forms furnished by the Board at www.ncdentalboard.org. No application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days Applicants shall ensure that proof of a high school equivalency certificate issued by a government agency or unit or a final transcript from his or her high school is sent to the Board office in a sealed envelope. Applicants shall also ensure that official final transcripts from a dental hygiene program as set forth in G.S. 90-244 are sent in a sealed envelope to the Board office.

(b) The one hundred fifty dollar ($150.00) nonrefundable application fee shall accompany the application, along with a photograph of the applicant, taken within six months of the date of application.  
(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.

(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. The form and card are available from the Board office.

*History Note: Authority G.S. 90-226; 90-229(a); 90-232; Eff. September 3, 1976;*

*Readopted Eff. September 26, 1977;*

*Amended Eff. May 1, 1989;  
Temporary Amendment Eff. January 1, 2003;  
Amended Eff. December 1, 2014; January 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16E .0104 EXAMINATION**

As a condition precedent to issuing a provisional license, the Board may require an applicant to demonstrate professional competency by appearing before the Board for oral examination, written examination(s), clinical evaluation or any combination thereof.  
The Board shall consider the applicant's training, experience, gaps in practice history and malpractice and disciplinary history in determining whether proof of competency will be required.

*History Note: Authority G.S. 90-226; 90-229(a)(5).  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. December 1, 2014; August 1, 2002; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

*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;  
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16G - DENTAL HYGIENISTS SECTION .0100 - FUNCTIONS THAT MAY BE DELEGATED**

**21 NCAC 16G .0101 FUNCTIONS THAT MAY BE DELEGATED**

A dental hygienist may be delegated functions to be performed under the control and supervision of a dentist who shall be responsible 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 .0203, functions that may be delegated to a dental hygienist provided that the dentist first examined the patient and prescribed the procedure include:

(1)  performing periodontal screening;

(2)  performing periodontal probing;

(3)  performing subgingival exploration for or removal of hard or soft deposits;

(4)  performing sulcular irrigation;

(5)  applying resorbable sulcular antimicrobial or antibiotic agents;

(6)  using ultrasonic scalers for prophylaxis;

(7)  performing scaling and root planning;

(8)  applying oral cancer screening products in preparation for the dentist's examination and diagnosis of oral cancer;

(9) using laser fluorescence detectors in preparation for the dentist's examination and diagnosis of cavities;

(10) applying resin infiltration treatment for incipient smooth surface lesions, following the dentist's diagnosis that the lesion is non-penetrable; or

(11) applying silver diamine fluoride.

*History Note: Authority G.S. 90-41; 90-221; 90-223(b); 90-233;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 2017; August 1, 2016; April 1, 2015; August 1, 2008; August 1, 2000; May 1, 1989; October 1, 1985; March 1, 1985;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. April 1, 2018.*

**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 that require the professional education and skill of a dentist and may not be delegated to a dental hygienist shall include:

(1) performing comprehensive examination, diagnosis, and treatment planning;

(2) performing surgical or cutting procedures on hard or soft tissues, including laser, air abrasion, or micro-abrasion procedures;

(3) placing or removing therapeutic sulcular nonresorbable agents;  
(4) issuing prescription drugs, medications, or work authorizations;

(5) performing the final placement or intraoral adjustment of a fixed or removable appliance;

(6) performing intraoral occlusal adjustments that affect function, fit, or occlusion of any temporary or permanent restoration or appliance;

(7) performing direct pulp capping or pulpotomy;

(8) placing sutures;

(9) performing final placement or cementation of orthodontic bands or brackets;  
(10) performing the placement or cementation of final restorations;

(11) administering any anesthetic by any route except administering topically-applied agents intended to anesthetize only cutaneous tissue;

(12) using a high-speed handpiece intraorally;

(13) performing cementation of endodontic posts;

(14) condensing Amalgam;

(15) using a transcutaneous electrical nerve stimulation (TENS) unit;

(16) applying formocresol;

(17) placing stainless steel crown on permanent or primary teeth;

(18) performing pulp vitality testing;

(19) performing curettage;

(20) placing periodontal or surgical dressing;

(21) performing oral brush biopsy;

(22) taking bite registration or Elastometrics;

(23) placing eugenol wick in dry socket;

(24) fabricating or delivering sleep apnea appliance; and

(25) removing, replacing, or torqueing either impression or prosthetic implant abutments.

*History Note: Authority G.S. 90-221(a); 90-223(b);*

*Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2016; August 1, 2008; August 1, 2000; May 1, 1989; March 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. April 1, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16G .0107 DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON MILITARY SERVICE**

(a) An applicant for a dental hygiene license by endorsement based on his or her status as a member of the U.S. military shall submit to the Board:

(1)  a completed, signed and notarized application form provided by the Board;

(2)  an application fee in the amount of two hundred sixty-five dollars ($265.00);

(3)  written evidence demonstrating that the applicant has been awarded a military occupational specialty in dental hygiene and that the applicant:

(A)  completed a military program of training substantially equivalent to or greater than the requirements for licensure as a dental hygienist in North Carolina;

(B)  completed testing or equivalent training and experience substantially equivalent to or greater than that required for licensure as a dental hygienist in North Carolina, as set forth in G.S. 90-224; and

(C)  engaged in the active practice of dental hygiene as defined by G.S. 90-221 for at least 1,500 hours per year during at least two of the five years preceding the date of application; and

(4) a statement disclosing and explaining the commission of any acts set out in G.S. 90-229, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.  
(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card. The form and card may be obtained from the Board office.

*History Note: Authority G.S. 90-223; 90-224(c); 90-229; 93B-15.1; Eff. September 19, 2013;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16G .0108 DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE**

(a) An applicant for a dental hygiene license by endorsement based on the applicant's status as a current spouse of an active member of the U.S. military shall submit to the Board:

(1)  a completed, signed and notarized application form provided by the Board;

(2)  a two hundred sixty-five dollar ($265.00) application fee;

(3)  written evidence demonstrating that the applicant is a military spouse and that such applicant:

(A)  holds a current dental hygiene license from another jurisdiction whose standards for licensure are substantially equivalent to or greater than those required for licensure as a dental hygienist in North Carolina; and

(B)  has engaged in the active practice of dental hygiene as defined by G.S. 90-221 for at least 1,500 hours per year during at least two of the five years preceding the date of application; and

(4)  a statement disclosing and explaining the commission of any act described in G.S. 90-229, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.  
(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card.

*History Note: Authority G.S. 90-223; 90-224(c); 90-229; 90-232; 93B-15.1;  
Eff. September 19, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) A Dental Assistant I is anyone performing any of the permitted or delegable functions under 21 NCAC 16H .0201, who does not satisfy the training and experience requirements for classification as a Dental Assistant II set forth in 21 NCAC 16H .0104, and is not licensed by the Board as a dentist or dental hygienist.  
(b) A Dental Assistant I shall have an unexpired CPR certification in effect at all times while performing any of the permitted functions under 21 NCAC 16H .0201.

(c) No Dental Assistant I may take radiographs before completing radiology training consistent with G.S. 90- 29(c)(12).

*History Note: Authority G.S. 90-29(c)(9);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) To be classified as a Dental Assistant II, an assistant shall have and maintain an unexpired CPR certification and also shall meet one of the following criteria:

(1)  completion of:

(A)  an ADA-accredited dental assisting program; or

(B)  one academic year or longer in an ADA-accredited dental hygiene program; or

(2)  completion of the Dental Assistant certification examination(s) administered by the Dental Assisting National Board; or

(3)  completion of:

(A)  full-time employment as a Dental Assistant I for two years of the preceding five, consisting of at least 3,000 hours total;

(B)  a 3-hour course in sterilization and infection control; and

(C)  a 3-hour course in dental office emergencies.

(b) A Dental Assistant who has completed the requirements of sections (a)(3)(B)-(C) but not completed the training pursuant to section (a)(3)(A)may be trained in any dental delivery setting and allowed to perform the functions of a Dental Assistant II, as specified in 21 NCAC 16H .0203,under the direct control and supervision of a licensed dentist.

(c) An unexpired CPR certification as used herein is one that is in effect and valid at the time of classification as a Dental Assistant II and remains so at all times while employed as a Dental Assistant II or while performing any of the permitted functions under 21 NCAC 16H .0203.  
(d) No Dental Assistant may take radiographs before completing radiology training consistent with G.S. 90- 29(c)(12).

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

*Amended Eff. August 1, 2016; April 1, 2015; August 1, 2000; November 1, 1996; January 1, 1994; September 1, 1998; May 1, 1989; October 1, 1986.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 that may be performed by a Dental Assistant I as set forth in 21 NCAC 16H .0201. 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 responsible for any and all consequences or results arising from the performance of such acts and functions, provided that the dentist first examined the patient and prescribed the procedure:

(1)  taking impressions for study models and opposing casts that may be used for the construction of temporary or permanent dental appliances, 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;

(3)  inserting matrix bands and wedges;

(4)  placing cavity bases and liners;

(5)  placing and removing rubber dams;

(6)  cementing temporary restorations using temporary cement;

(7)  applying acid etch materials and rinses;

(8)  applying bonding agents;

(9)  removing periodontal and surgical dressings;

(10)  removing sutures;

(11)  placing and removing gingival retraction cord;

(12)  removing excess cement with hand scaler supragingivally;

(13)  flushing, drying, and temporarily closing root canals or pulpotomies;

(14)  placing and removing temporary restorations;

(15)  placing and tying in or untying and removing orthodontic arch wires, ligature wires, or lock pins;

(16)  inserting interdental spacers;

(17)  fitting (sizing) orthodontic bands or brackets;

(18)  applying dentin desensitizing solutions;

(19)  performing extra-oral adjustments that affect function, fit, or occlusion of any restoration or appliance;

(20)  initially forming and sizing orthodontic arch wires and placing arch wires after final adjustment and approval by the dentist;

(21)  polishing the clinical crown, pursuant to Paragraph (b) of this Rule using only:

(A)  a hand-held brush and 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 polishing agents;

(22)  exposing radiographs and cone beam images;

(23)  polishing removable appliances extra-orally;

(24)  preparing and loading amalgam in carrier;

(25)  measuring pulse, blood pressure, and temperature;

(26)  using micro-etcher extra-orally;

(27)  placing a throat shield in oropharynx during administration of general anesthesia;

(28)  delivering dentures to patient for insertion, provided the dentist approves the denture placement; or

(29)  removing or replacing healing abutments or cover screws for implants that may be accessed supragingivally.

(b) A Dental Assistant II shall complete a course in coronal polishing identical to that taught in an ADA accredited dental assisting program, or by a licensed North Carolina hygienist or dentist lasting at least seven clock hours before using a slow speed handpiece with rubber cup or bristle brush attachment. The course shall include instruction on dental morphology, the periodontal complex, operation of handpieces, polish aids, and patient safety. A list of ADA accredited programs offering courses in coronal polishing, which is incorporated by reference along with its subsequent amendments and editions, is available at no cost on the American Dental Association's website at http://www.ada.org/en/coda/find-a-program. A coronal polishing procedure shall not be represented to the patient as a prophylaxis. No coronal polishing procedure may be billed as a prophylaxis 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); 90-41; 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. August 1, 2016; April 1, 2015; January 1, 2014; September 1, 2009; September 1, 2008; August 1, 2000; October 1, 1996; January 1, 1994; May 1, 1989; October 1, 1985; March 1, 1985;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. April 1, 2018.*

**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 that 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, those procedures that require the professional education and skill of a Dentist or Dental Hygienist and may not be delegated to a Dental Assistant I or Dental Assistant II shall include:

(1)  performing prophylaxis;

(2)  performing periodontal screening;

(3)  performing periodontal probing;

(4)  performing subgingival exploration for or removal of hard or soft deposits;

(5) performing sulcular irrigation;

(6) using ultrasonic scalers for prophylaxis;

(7) applying antibiotic-coated materials;

(8) applying resorbable antimicrobial agents;

(9) performing root planing;

(10) applying oral cancer screening products;

(11) using laser fluorescence detectors in preparation for the dentist's examination and diagnosis of cavities; or  
(12) applying resin infiltration treatment for incipient smooth surface lesions, following the dentist's diagnosis that the lesion is non-penetrable.

*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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. April 1, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16H .0207 LIMITED EXCEPTION FOR ASSISTING HYGIENISTS**

A Dental Assistant II may assist a Limited Supervision Hygienist, who is qualified and practicing pursuant to 21 NCAC 16Z .0101-.0103, in providing oral hygiene instruction, applying sealants, applying topical fluorides, applying fluoride varnishes, and while the Hygienist is performing prophylaxis, provided:

(1) The treatment is provided to children in school-based programs under the NC Children's Dental Home/School Based Sealant Initiative and the related pilot project developed by the North Carolina Dental Society and funded by Duke Endowment Grant No. 6564-SP; and

(2) Prior to any treatment being provided, a licensed North Carolina dentist has:

(a)  examined the patient;

(b)  ordered the treatment provided to the patient; and

(c)  agreed to provide the patient with any necessary additional treatment resulting from the treatment rendered in accordance with this Rule.

*History Note: Authority G.S. 90-29(c)(9); 90-48; 90-233; Eff. December 1, 2016.*

**SUBCHAPTER 16I - ANNUAL RENEWAL OF DENTAL HYGIENIST LICENSE SECTION .0100 - ANNUAL RENEWAL**

**21 NCAC 16I .0101 APPLICATIONS**

A renewal application shall be completed and received in the Board's office before midnight on January 31 of each year. Any renewal applications received after that date will require a late fee.

*History Note: Authority G.S. 90-227;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 2015; February 1, 2008; April 1, 2003; August 1, 1998; May 1, 1989. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) As a condition of license renewal, each dental hygienist shall complete six clock hours of continuing education each calendar year. Any or all the hours may be acquired through self study courses. To count toward the mandatory continuing education requirement, self study courses shall be related to clinical patient care and offered by a board approved sponsor. The hygienist shall pass a test following the course and obtain a certificate of completion.

(b) Current certification in CPR is required in addition to the mandatory continuing education hours.  
(c) 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, depending upon the nature of the disabling condition, its impact on the hygienist's ability to complete continuing education, and the likely duration of the disability.  
(d) If a licensee who has been exempted from continuing education requirements wishes to resume practice, the licensee shall complete continuing education courses in accordance with this Rule. The Board may require licensees who have not practiced dental hygiene for more than a year to undergo a clinical test before allowing the licensee to resume practice if there is evidence that the licensee suffers from addiction or a mental or physical condition that impairs the licensee's ability to practice hygiene competently.

*History Note: Authority G.S. 90-225.1; 90-229; Eff. May 1, 1994;*

*Amended Eff. April 1, 2015; November 1, 2008; April 1, 2001; August 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) 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 .0102 and .0104 of this Subchapter, the Board shall refuse to issue a renewal certificate for the year for which renewal is sought until 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 shall refuse to issue a certificate of renewal until the applicant meets the qualifications for credit.

(b) 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 midnight on March 31 of each year, the license becomes void and the holder must petition the Board for reinstatement.

*History Note: Authority G.S. 90-225.1; 90-227; Eff. May 1, 1994; Amended Eff. April 1, 2015; February 1, 2008; April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

If an application for a renewal certificate, accompanied by the renewal fee and the additional late filing fee, is not received in the Board's office before midnight on March 31 of each year, the license becomes void and the hygienist must petition the Board for reinstatement.

*History Note: Authority G.S. 90-227;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Transferred and Recodified from21 NCAC 16I .0003 Eff. May 1, 1994;  
Amended Eff. April 1, 2015; February 1, 2008; April 1, 2003; August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

The certificate of renewal of license shall bear the original license number, 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;  
Amended Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) The original license and current certificate of renewal of license for a Dental Hygienist shall at all times be displayed where it is visible to patients receiving treatment at the office where the dental hygienist is employed.  
(b) Hygienists providing treatment at more than one office shall only be required to display a current renewal certificate of license at each additional office where they provide dental hygiene services, as long as the original license is displayed in at least one office.

(c) Hygienists shall produce their original license and current renewal certificate on demand of the North Carolina State Board of Dental Examiners or its 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;  
Amended Eff. August 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 and who is not practicing under any probationary terms.

*History Note: Authority G.S. 90-222; 90-223; 93B-15;  
Eff. April 1, 2010;  
Amended Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) Eligible licensees, as defined in Rule .0110 of this Section, are granted a waiver of their mandatory continuing education requirements for the period allowed pursuant to G.S. 105-249.2  
(b) Eligible licensees are granted an extension for the period allowed pursuant to G.S. 105-249.2 in which to pay license renewal fees and comply with all other requirements imposed by the Dental Board as conditions for maintaining licensure.

*History Note: Authority G.S. 90-222; 90-223; 93B-15;  
Eff. April 1, 2010;  
Amended Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 any substances that create a public health or safety hazard.  
(b) The premises shall be kept free of all insects and vermin.  
(c) Water of a safe, sanitary quality shall be piped under pressure, 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 at all times.  
(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 state Department of Environment and Natural Resources.  
(g) There shall be functioning toilet facilities on the premises of every dental office. They shall conform to standards of the state Department of Environment and Natural Resources.  
(h) No animals, except certified assistance animals required to assist disabled individuals, shall be allowed in any area of a dental office where clinical work is being performed.

*History Note: Authority G.S. 90-41(a)(23); 90-48;  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 2015; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16K - DENTAL SCHOOL EXTENSION FACILITIES**

**21 NCAC 16K .0101 AUTHORITY FOR DESIGNATION 21 NCAC 16K .0102 SUPERVISION AND DIRECTION**

*History Note: Authority G.S. 90-29(c)(4); Eff. September 3, 1976;*

*Readopted Eff. September 26, 1977; Repealed Eff. May 1, 1989.*

**21 NCAC 16K .0103 INSTRUCTORS TO BE APPROVED**

All dentists acting as instructors in dental school extension facilities shall be approved by that official of a North Carolina school of dentistry who is generally responsible for faculty appointments.

*History Note: Authority G.S. 90-29(c)(4);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 2015; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16K .0104 NO FEES FOR SERVICES**

Any student enrolled in a dental school extension facility shall receive no fees, compensation or remuneration of any kind or nature for dental services rendered by him other than for expenses incurred or such subsistence allowance as is authorized and permitted by the agency or entity wherein or for which said services are rendered in accordance with G.S. 90-29(c)(4).

*History Note: Authority G.S. 90-29(c)(4); Eff. September 3, 1976;*

*Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16K .0105 EXTENSION OF SCHOOL OF DENTISTRY**

*History Note: Authority G.S. 90-29(c)(4); Eff. September 3, 1976;*

*Readopted Eff. September 26, 1977; Repealed Eff. May 1, 1989.*

**21 NCAC 16K .0106 REPORTS TO BOARD**

Every North Carolina school of dentistry shall keep the Board informed of the:

(1) location and kind of patients seen at each dental school extension facility;

(2) names of the students assigned there; and

(3) names and qualifications of all instructors functioning therein.

*History Note: Authority G.S. 90-29(c)(4);  
Eff. September 3, 1976;  
Readopted Eff. September 26, 1977;  
Amended Eff. April 1, 2015; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 $ 25.00

to another state or territory

(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

(14)  Application for license by endorsement $ 395.00  
(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); 93B-15.1;  
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. September 19, 2013; May 1, 2011; April 1, 2006; March 1, 2004; January 1, 2004; April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 $25.00

change to another state or territory

(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; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

*Amended Eff. March 1, 1985;  
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.*

**SECTION .0300 - RULEMAKING HEARINGS 21 NCAC 16N .0301 REQUEST TO PARTICIPATE**

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

*Amended Eff. May 1, 1989; Repealed Eff. April 1, 2014.*

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

Presentations at Board rule making hearings 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. April 1, 2014; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

*Amended Eff. May 1, 1989. Repealed Eff. April 1, 2014.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) Any individual who believes his or her rights, duties, or privileges have been affected by the Board's administrative action, but who has not received a notice of a right to an administrative hearing, may file a request for hearing.  
(b) The individual shall submit a request to the Board's office, containing 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. April 1, 2015; May 1, 1989; March 1, 1985; November 20, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 office of the Board to contact for further information or discussion; and

(2)  A statement explaining that the Respondent may be represented by counsel, testify, offer evidence, and cross examine adverse witnesses at 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 pursuant to G.S. 150B-3. 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-3; 150B-38; Eff. August 25, 1977;*

*Amended Eff. April 1, 2015; May 1, 1989; April 1, 1988; October 1, 1986; November 20, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

All administrative hearings shall be conducted by a panel consisting of a majority of Board members eligible to vote on the issue, 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, 1997;*

*Amended Eff. April 1, 2015; March 1, 1988; October 1, 1986; November 20, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

(1)  the name and address of petitioner;

(2)  the business or occupation of petitioner;

(3)  the name and citation of the hearing in which petitioner is seeking to intervene;

(4)  the grounds for intervention or a statement that no grounds exist;

(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, it shall send written notice to the petitioner and all parties. In cases of discretionary intervention, such notification shall include a statement of any limitations of time, subject matter, evidence or whatever else the Board deems necessary that are imposed on the intervenor.  
(e) If the Board decides to deny intervention it shall send written notice to the petitioner and all parties, stating the reasons for the denial.

*History Note: Authority G.S. 150B-38; Eff. August 25, 1977;*

*Amended Eff. April 1, 2015; May 1, 1989; March 1, 1985; November 20, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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: Authority G.S. 150B-38;  
Eff. August 25, 1977;  
Legislative Objection Lodged Eff. February 19, 1980;  
Amended Eff. November 20, 1980;  
Legislative Objection Removed Eff. March 19, 1981;  
Amended Eff. May 1, 1989; April 2, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

(a) Self Disqualification. If 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 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 shall bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (NAME OF CASE).  
(c) Contents of Affidavit. The affidavit shall 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 shall be considered timely if filed 10 days before commencement of the hearing. Any other affidavit shall 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 10 days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. The petitioner shall have the opportunity to present evidence supporting his or her petition, and the petition and any evidence 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 shall not participate in further deliberation or decision of the case.

(e) Procedure for Determining Disqualification:

(1) The Board shall appoint a Board member to investigate the allegations of the affidavit.

(2) The investigator shall 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 shall 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, the hearing shall continue with the remaining members sitting, provided that the remaining members still constitute a majority of the Board who are eligible to vote.

(6) If a majority of the members of the Board who are eligible to vote 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. April 1, 2015; May 1, 1989; October 1, 1986; November 20, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: 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**

**RELATED RIGHTS AND**

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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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:

(1) be made in writing to the Board;  
(2) identify any documents sought with specificity; and  
(3) include the full name and home or business address of all persons to be subpoenaed; and (4) if known, the date, time, and place for responding to the subpoena.

(b) The Board shall issue the requested subpoenas within three days of the receipt of the request. (c) Subpoenas shall contain:

(1)  the caption of the case;

(2)  the name and address of the person subpoenaed;

(3)  the date, hour and location of the hearing in which the witness is commanded to appear;

(4)  a particularized description of the books, papers, records, or objects the witness is directed to bring with him to the hearing, if any;

(5)  the identity of the party on whose application the subpoena was issued; and

(6)  a return of service form.

(d) The "return of service" form, as filled out, shows the name and capacity of the person serving the subpoena, the date the subpoena was delivered to the person directed to make service, the date 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.  
(e) Subpoenas shall be served as permitted by Rule 45 of the North Carolina Rules of Civil Procedure, as set forth in G.S. 1A-1.

(f) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. Such objection shall include a statement of all reasons why the subpoena should be revoked or modified. These reasons may include any basis 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.

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

(i) 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 a hearing, at which evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.

(j) The majority of the Board members hearing the contested case shall rule on the challenge and issue a written decision to all parties and made a part of the record.

*History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-39; 150B-40  
Eff. August 25, 1977;  
Legislative Objection Lodged Eff. November 20, 1980;  
Legislative Objection Removed Eff. March 19, 1981;  
Amended Eff. April 1, 2015; May 1, 1989; March 1, 1988; October 1, 1986; March 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16O – NITROUS-OXIDE-OXYGEN CONSCIOUS SEDATION SECTION .0100 - REGISTRATION AND REPORTING**

**21 NCAC 16O .0101 REGISTRATION 21 NCAC 16O .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 .0200 - QUALIFICATIONS OF DENTAL ASSISTANTS AND HYGIENISTS**

**21 NCAC 16O .0201 21 NCAC 16O .0202 21 NCAC 16O .0203**

**EDUCATIONAL REQUIREMENTS DEFINITION  
APPROVED COURSE(S)**

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

*Repealed Eff. July 16, 1980.*

**SECTION .0300 - DEFINITIONS**

**21 NCAC 16O .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;  
Amended Eff. April 1, 2016 (See S.L. 2016-31);  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16O .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;  
Amended Eff. April 1, 2016 (See S.L. 2016-31);  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0400 - QUALIFICATIONS TO PERFORM FUNCTIONS**

**21 NCAC 16O .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;  
Amended Eff. April 1, 2016 (See S.L. 2016-31);  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16O .0402 EDUCATIONAL REQUIREMENTS**

A Dental Assistant may aid and assist a licensed dentist in the monitoring of nitrous oxide-oxygen inhalant sedation by completing a Board-approved course totaling at least seven hours that covers the following topics:

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

(2)  the states of drug-induced central nervous system depression through all levels of consciousness and unconsciousness, with 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 nitrous oxide techniques being taught, including drug interaction and incompatibility;

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

(6) prevention, recognition, and management of complications and life threatening situations that may occur during the use of the nitrous oxide techniques, including 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. April 1, 2016; May 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16O .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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 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 that allows for uninterrupted interactive ability in an awake patient with no compromise in the ability to maintain a patent airway independently and continuously. Nitrous oxide may be administered in addition to the minor psychosedative without constituting multiple dosing for purpose of these Rules.

(4)  "ACLS" – Advanced Cardiac Life Support.

(5)  "Administer" – to direct, manage, supervise, control, and have charge of all aspects of selection, dosage, timing, and method of delivery to the patient of any pharmacologic agent intended to reduce anxiety or depress consciousness.

(6)  "ASA" – American Society of Anesthesiologists.

(7)  "Auxiliaries" – non-dentist staff members involved in general anesthesia or sedation procedures.

(8)  "BLS" – Basic Life Support.

(9)  "Behavior control" – the use of pharmacological techniques to control behavior to a level that dental treatment may be performed without injury to the patient or dentist.

(10)  "Behavioral management" – the use of pharmacological or psychological techniques, singly or in combination, to modify behavior to a level that dental treatment may be performed without injury to the patient or dentist.

(11)  "Competent" – displaying special skill or knowledge derived from training and experience.

(12)  "Conscious sedation" - an induced state of a depressed level of consciousness that retains the patient's ability to maintain an airway without assistance and respond to physical stimulation and verbal commands, and that is produced by pharmacologic or non-pharmacologic agents, or a combination thereof. All dentists who perform conscious sedation shall have an unexpired sedation permit from the Dental Board.

(13)  "CRNA" – Certified Registered Nurse Anesthetist.

(14)  "Deep sedation" – an induced state of a depressed level of consciousness accompanied by partial loss of protective reflexes, including the ability to maintain an airway without assistance or respond to verbal command, produced by pharmacological agents. All dentists who perform deep sedation shall have an unexpired general anesthesia permit from the Dental Board.

(15)  "Deliver" – to assist a permitted dentist in administering sedation or anesthesia drugs by providing the drugs to the patient pursuant to a direct order from the dentist and while under the dentist's direct supervision.

(16)  "Direct supervision" – the dentist responsible for the sedation or anesthesia procedure shall be immediately available and shall be aware of the patient's physical status and well being at all times.

(17)  "Emergencies manual" – a written manual that documents:

(a)  the location of all emergency equipment and medications in each facility;

(b)  each staff member's role during medical emergencies; and

(c)  the appropriate treatment for laryngospasm, bronchospasm, emesis and aspiration, respiratory depression and arrest, angina pectoris, myocardial infarction, hypertension, hypotension, allergic reactions, convulsions, syncope, bradycardia, hypoglycemia, cardiac arrest, and airway obstruction.

(18)  "Enteral" - the administration of pharmacological agents orally, intranasally, sublingually, or rectally.

(19)  "ET CO2" —end tidal carbon dioxide.

(20)  "Facility" – the location where a permit holder practices dentistry and provides anesthesia or sedation services.

(21)  "Facility inspection" – an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia or sedation is supplied, equipped, staffed, and maintained in a condition to support provision of anesthesia or sedation services in compliance with the Dental Practice Act set forth in Article 2 of G.S. 90 and the Board's rules of this Chapter.

(22)  "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 to physical stimulation and verbal commands. All dentists who perform general anesthesia shall have an unexpired general anesthesia permit from the Dental Board.

(23)  "Good standing" – a licensee whose license is not suspended or revoked and who is not subject to a current disciplinary order imposing probationary terms.

(24)  "Immediately available" – on-site in the facility and available for use without delay.

(25)  "Itinerant general anesthesia provider"- a permittee who has complied with Rule .0206 of this Subchapter and who administers general anesthesia at another practitioner's facility.

(26)  "Local anesthesia" – the elimination of sensations, including pain, in one part of the body by the regional application or injection of a drug.

(27)  "Minimal conscious sedation" – conscious sedation characterized by a minimally depressed level of consciousness, in which the 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 may be provided for behavioral management.

(28)  "Minor psychosedative/Minor tranquilizer" – pharmacological agents that 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.

(29)  "Moderate conscious sedation" – conscious sedation characterized by a drug induced depression of consciousness, during which patients respond to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients 13 years of age or older, 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 conscious sedation may be provided for behavior control by licensed dentists who comply with the terms of Rule .0301 of this Subchapter. A moderate conscious sedation provider shall not use the following:

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

(b)  drugs contraindicated for use in moderate conscious sedation.

(30)  "Moderate pediatric conscious sedation" - conscious sedation characterized by a drug induced depression of consciousness, during which patients respond to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients up to 18 years of age, or special needs patients, 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 may be provided for behavior control by licensed dentists who comply with the terms of Rule .0404 of this Subchapter. A moderate pediatric conscious sedation permit holder shall not use the following:

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

(b)  drugs contraindicated for use in moderate pediatric conscious sedation.

(31)  "Parenteral" - the administration of pharmacological agents intravenously, intraosseously, intramuscularly, subcutaneously, submucosally, intranasally, or transdermally.

(32)  "PALS" – Pediatric Advanced Life Support.

(33)  "Protective reflexes" – includes the ability to swallow and cough.

(34)  "RN" – Registered Nurse licensed by the North Carolina Board of Nursing.

(35)  "Sedation Procedure" – process begins when any pharmacological agent is first administered to a patient to induce general anesthesia or sedation and continues until the dentist permit holder determines that the patient has met the recovery and discharge criteria set forth in the applicable rules in this Subchapter.

(36)  "Special needs patients" – patients with diminished mental and or physical capacity who are unable to cooperate to receive ambulatory dental care without sedation or anesthesia.

(37)  "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 when added to the primary agent, does not exceed the maximum safe dose of either agent, separately or synergistically.

(38)  "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 patient following the administration of general anesthesia or conscious sedation.

*History Note: Authority G.S. 90-30.1; 90-48;  
Eff. February 1, 1990;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. June 1, 2017; July 3, 2008; August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0200 - GENERAL ANESTHESIA**

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

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA to administer general anesthesia or perform deep sedation, the dentist shall obtain a general anesthesia permit from the Board by completing the application requirements of this Rule and paying a four hundred seventy-five dollar ($475.00) fee that includes the one-hundred dollar ($100.00) application fee and the three-hundred seventy-five dollar ($375.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

(b) A dentist applying for a general anesthesia permit shall be in good standing with the Board, has an unexpired ACLS certification, and demonstrates that he or she has one of the following qualifications:

(1)  has completed a minimum of two years of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level;

(2)  has graduated from a program certified by the American Dental Association in Oral and Maxillofacial Surgery;

(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.

(c) Before receiving a general anesthesia permit, all applicants shall pass an evaluation and inspection as set out in Rule .0202 of this Section. Every location other than a hospital or credentialed surgery center where a general anesthesia permit holder administers general anesthesia shall pass an inspection as set out in Rule .0204 of this Section.  
(d) A dentist who holds a general anesthesia permit may administer any level of sedation without obtaining a separate sedation permit.  
(e) A dentist who does not hold a general anesthesia permit may not employ a CRNA to administer general anesthesia services. A dentist who holds a general anesthesia permit may employ a CRNA to administer general anesthesia services under supervision of the dentist.  
(f) A general anesthesia permit holder may provide general anesthesia at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the general anesthesia is administered has been inspected and complies with the requirements set out in Rule .0202 of this Section and shall obtain an itinerant general anesthesia permit and comply with the requirements of Rule .0206 of this Section.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39;  
Eff. February 1, 1990;  
Amended Eff. April 1, 2001; August 1, 2000;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. June 1, 2017; February 5, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16Q .0202 GENERAL ANESTHESIA EQUIPMENT AND CLINICAL REQUIREMENTS**

(a) A dentist administering general anesthesia shall be responsible to ensure that the facility where the general anesthesia is administered meets the following requirements:

(1) The facility shall be equipped with the following:

(A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;

(B)  a CPR board or dental chair without enhancements, suitable for providing emergency treatment;

(C)  lighting as necessary for specific procedures and back-up lighting; and

(D)  suction equipment as necessary for specific procedures, including non-electrical back-up suction;

(E)  positive pressure oxygen delivery system, including full face masks for small, medium, and large patients, and back-up E-cylinder portable oxygen tank apart from the central system;

(F)  small, medium, and large oral and nasal airways;

(G)  blood pressure monitoring device;

(H)  EKG monitor; electrocardiograph;

(I)  pulse oximeter;

(J)  defibrillator;

(K)  precordial stethoscope or capnograph;

(L)  thermometer;

(M)  vascular access as necessary for specific procedures, including hardware and fluids;

(N)  laryngoscope with working batteries;

(O)  intubation forceps and advanced airway devices;

(P)  tonsillar suction with back-up suction;

(Q)  syringes as necessary for specific procedures; and

(R)  tourniquet and tape.

(2)  The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:

(A)  Epinephrine;

(B)  Atropine;

(C)  antiarrhythmic;

(D)  antihistamine;

(E)  antihypertensive;

(F)  bronchodilator;

(G)  antihypoglycemic agent;

(H)  vasopressor;

(I)  corticosteroid;

(J)  anticonvulsant;

(K)  muscle relaxant;

(L)  appropriate reversal agents;

(M)  nitroglycerine; and

(N)  antiemetic.

(3)  The permit holder shall maintain written emergency and patient discharge protocols and training to familiarize auxiliaries in the treatment of clinical emergencies shall be provided;

(4)  The permit holder shall maintain the following records for 10 years:

(A)  Patient's current written medical history, including a record of known allergies and previous surgeries;

(B)  Consent to general anesthesia, signed by the patient or guardian, identifying the risks and benefits, level of anesthesia, and date signed;

(C)  Consent to the procedure, signed by the patient or guardian identifying the risks, benefits, and date signed; and

(D)  Patient base line vital signs, including temperature, SPO2, blood pressure, and pulse;

(5)  The anesthesia record shall include:

(A)  base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;

(B)  procedure start and end times;

(C)  gauge of needle and location of IV on the patient, if used;

(D)  status of patient upon discharge; and

(E)  documentation of complications or morbidity; and

(6) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of anesthesia while the evaluator observes, and shall demonstrate competency in the following areas:

(1)  monitoring of blood pressure, pulse, ET CO2 if capnography is utilized, and respiration;

(2)  drug dosage and administration;

(3)  treatment of untoward reactions including respiratory or cardiac depression;

(4)  sterile technique;

(5)  use of BLS certified auxiliaries;

(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 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 and hypotension;

(8) syncope;

(9) allergic reactions;

(10) convulsions;

(11) bradycardia;

(12) hypoglycemia;

(13) cardiac arrest; and

(14) airway obstruction.

(d) A general anesthesia permit holder shall evaluate a patient for health risks before starting any anesthesia procedure.  
(e) Post-operative monitoring and discharge shall include the following:

(1)  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 recovered as defined by Subparagraph (e)(2) of this Rule and is ready for discharge from the office; and

(2)  recovery from general anesthesia shall include documentation of the following:

(A)  cardiovascular function stable;

(B)  airway patency uncompromised;

(C)  patient 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 special needs patient or a patient 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; and

(3)  before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (e)(2) of this Rule and the following discharge criteria:

(A)  oxygenation, circulation, activity, skin color, and level of consciousness are sufficient, 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; and

(C)  vested adult is available to transport the patient after discharge.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. February 1, 1990;*

*Amended Eff. June 1, 2017; November 1, 2013; August 1, 2002; August 1, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

*Amended Eff. August 1, 2002; Repealed Eff. April 1, 2016.*

**21 NCAC 16Q .0204 PROCEDURE FOR GENERAL ANESTHESIA EVALUATION OR INSPECTION AND RE-INSPECTION**

(a) When an evaluation or on-site inspection is required, the Board shall designate two or more qualified persons to serve as evaluators, each of whom has administered general anesthesia for at least three years preceding the inspection. Training in general anesthesia shall not be counted in the three years. 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 evaluator.

(b) An inspection fee of three hundred seventy five dollars ($375.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers general anesthesia.  
(c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.  
(d) 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."

(e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.

(f) An applicant who fails an inspection or evaluation shall not receive a permit to administer general anesthesia. If a permit holder fails an evaluation, the permit shall be summarily suspended as provided by G.S. 150B-3(c). If a permit holder's facility fails an inspection, no further anesthesia procedures shall be performed at the facility until it passes a re-inspection by the Board.

(g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. The Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.

(h) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39; Eff. February 1, 1990;*

*Amended Eff. April 1, 2016; February 1, 2009; December 4, 2002; January 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

*Amended Eff. August 1, 2002; Repealed Eff. April 1, 2016.*

**21 NCAC 16Q .0206 ITINERANT (MOBILE) GENERAL ANESTHESIA PERMIT, EQUIPMENT AND EVALUATION**

(a) A dentist who holds a general anesthesia permit from the Board and who wishes to provide general anesthesia or other sedation services in the office of another practitioner shall obtain a mobile general anesthesia permit from the Board by completing the application requirements of this Rule and paying a one hundred ($100.00) application fee. No mobile permit shall be required to administer general anesthesia in a hospital or credentialed surgery center.

(b) Before a mobile general anesthesia permit may be issued, a general anesthesia permit holder appointed by the Board shall inspect the applicant's equipment and medications to ensure that they comply with Paragraphs (c) and (d) of this Rule.  
(c) The permit holder shall maintain the following equipment:

(1)  positive pressure ventilation system and back-up E cylinder portable oxygen tank;

(2)  standard ASA monitors with back-up power;

(3)  EKG monitor;

(4)  precordial stethoscope or capnograph;

(5)  small, medium, and large oral airways and nasal trumpets;

(6)  small, medium, and large laryngoscope blades and back-up laryngoscope;

(7)  small, medium, and large nasal and oral endotracheal tubes;

(8)  Magill forceps;

(9)  small, medium, and large supraglottic airway devices;

(10)  back-up suction;

(11)  defibrillator with pediatric capability;

(12)  small, medium, and large anesthesia circuits;

(13)  back-up lighting;

(14)  gastric suction device;

(15)  endotracheal tube and pulmonary suction device;

(16)  equipment for performing emergency cricothyrotomies and delivering positive pressure ventilation;

(17)  back-up ventilation measurement;

(18)  rebreathing device;

(19)  scavenging system;

(20)  intermittent compression devices;

(21)  CPR board or dental chair without enhancements suitable for providing emergency treatment;

(22)  laryngoscope with working batteries; and

(23)  tourniquet and tape.

(d) The following unexpired medications shall be immediately available to the permit holder:

(1)  Epinephrine;

(2)  Atropine;

(3)  antiarrhythic;

(4)  antihistamine;

(5)  antihypertensive;

(6)  bronchodilator;

(7)  antihypoglycemic agent;

(8)  vasopressor;

(9)  corticosteroid;

(10)  anticonvulsant;

(11)  muscle relaxant;

(12)  appropriate reversal agents;

(13)  nitroglycerine;

(14)  antiemetic;

(15)  neuromuscular blocking agent; and

(16)  anti-malignant hyperthermia agent.

(e) The evaluation and on-site inspection shall be conducted as set out in Rule .0204 of this Section.  
(f) Before administering general anesthesia or sedation at another provider's office, the mobile permit holder shall inspect the host facility to ensure that:

(1) the operatory's size and design permit emergency management and access of emergency equipment and personnel;

(2)  there is a CPR board or dental chair without enhancements suitable for providing emergency treatment;

(3)  there is lighting to permit performance of all procedures planned for the facility;

(4)  there is suction equipment, including non-electrical back-up suction; and

(5)  the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(g) At least 24 hours before the procedure is scheduled to begin, the mobile permit holder shall send written notice to the Board office confirming that the facility where the general anesthesia or sedation will be performed meets the requirements of Paragraph (f) of this Rule and documenting when the inspection was conducted. The permit holder shall retain a copy of the written notice for 10 years following the procedure. No procedure shall be performed until the report required by this Paragraph is filed.

(h) The mobile general anesthesia permit shall be displayed in the host facility where it is visible to patients receiving treatment.  
(i) All applicants for mobile general anesthesia permit shall be in good standing with the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39; 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0207 ANNUAL RENEWAL OF GENERAL ANESTHESIA AND ITINERANT (MOBILE) GENERAL ANESTHESIA PERMIT REQUIRED**

(a) General anesthesia permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar ($100.00) fee and completing the application requirements of this Rule. If the completed renewal application and renewal fee are not received before January 31 of each year, a one hundred dollar ($100.00) late fee shall be paid.

(b) Itinerant general anesthesia permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar ($100.00) fee and completing an application available from the Board's website: www.ncdentalboard.org. If the completed itinerant general sedation permit and renewal fee are not received before January 31 of each year, a one hundred dollar ($100.00) late fee shall be paid.

(c) Any dentist who fails to renew a general anesthesia permit or itinerant general anesthesia permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose anesthesia permits or itinerant general anesthesia permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers general anesthesia in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.  
(e) As a condition for renewal of the general anesthesia and itinerant general anesthesia permit, the permit holder shall maintain the clinical equipment and requirements set out in Rules .0202 and .0206 of this Section and shall document the following:

(1) six 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 general anesthesia and IV sedation;

(E)  physical evaluation, risk assessment, or behavioral management; or

(F)  airway management;

(2)  unexpired ACLS certification, which shall not count towards the six hours required in Subparagraph (e)(1) of this Rule;

(3)  that the permit holder and all auxiliaries involved in anesthesia or sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;

(4)  that the permit holder and all auxiliaries involved in anesthesia or sedation procedures have read the practice's emergency manual in the preceding year; and

(5)  that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a general anesthesia or itinerant general anesthesia permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48; Eff. June 1, 2017.*

**SECTION .0300 - PARENTERAL CONSCIOUS SEDATION**

**21 NCAC 16Q .0301 CREDENTIALS AND PERMITS FOR MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION**

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA employed to administer or RN employed to deliver moderate conscious sedation, the dentist shall obtain a permit from the Board by completing the application requirements in this Rule and paying a fee of three hundred seventy five dollars ($375.00) fee that includes the one-hundred dollar ($100.00) application fee and the two-hundred seventy-five dollar ($275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the facility of the permit holder where it is visible to patients receiving treatment.

(b) The permit holder shall provide supervision to any CRNA employed to administer or RN employed to deliver sedation, and shall ensure that the level and duration of the sedation does not exceed the permit holder's permit.  
(c) A dentist applying for a permit to administer moderate conscious sedation shall document the following:

(1)  Training which may consist of either:

(A)  Completion of 60 hours of Board approved didactic training in intravenous conscious sedation, and 30 hours of clinical training that shall include successful management of a minimum of 20 live patients, under supervision of the course instructor, using intravenous sedation. Training shall be provided by one or more individuals who meet the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists that is hereby incorporated by reference, including subsequent amendments and editions. The guidelines may be found at www.ada.org/coda; or

(B)  Completion of a pre-doctoral dental or postgraduate program that included intravenous conscious sedation training equivalent to that defined in Part (c)(1)(A) of this Rule;

(2)  Unexpired ACLS certification; and

(3)  That all auxiliaries involved in sedation procedures have unexpired BLS certification.

(d) All applicants for a moderate conscious sedation permit shall be in good standing with the Board.  
(e) Prior to issuance of a moderate conscious sedation permit, the applicant shall pass an evaluation and a facility inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her facility within 90 days of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one by contacting the Board in writing.  
(f) A dentist who holds a moderate conscious sedation permit shall not intentionally administer deep sedation.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48;  
Eff. February 1, 1990;  
Amended Eff. April 1, 2001; August 1, 2000; January 1, 1994;  
Temporary Amendment Eff. December 11, 2002;  
Amended Eff. June 1, 2017; July 1, 2010, July 3, 2008; August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16Q .0302 MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT**

(a) A dentist administering moderate conscious sedation or supervising any CRNA employed to administer or RN employed to deliver moderate conscious sedation shall be responsible to ensure that the facility where the sedation is administered meets the following requirements:

(1)  The facility shall be equipped with the following:

(A)  an operatory of size and design to permit access of emergency equipment and personnel and to permit 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 back-up lighting; and

(D)  suction equipment as necessary for specific procedures, including non-electrical back-up suction;

(E)  positive oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;

(F)  small, medium, and large oral and nasal airways;

(G)  blood pressure monitoring device;

(H)  pulse oximeter;

(I)  automatic external defibrillator (AED);

(J)  EKG monitor;

(K)  precordial stethoscope or capnograph;

(L)  thermometer;

(M)  vascular access set-up as necessary for specific procedures, including hardware and fluids;

(N)  syringes as necessary for specific procedures;

(O)  tourniquet and tape;

(P)  advanced airway devices; and

(Q)  tonsillar suction with back-up suction.

(2)  The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:

(A)  injectable epinephrine;

(B)  injectable Atropine;

(C)  injectable appropriate reversal agents;

(D)  injectable antihistamine;

(E)  injectable corticosteroid;

(F)  nitroglycerine;

(G)  bronchodilator;

(H)  injectable antiemetic;

(I)  Dextrose; and

(J)  injectable anti-arrhythmic.

(3)  The permit holder shall maintain written emergency and patient discharge protocols and training to familiarize auxiliaries in the treatment of clinical emergencies shall be provided; and

(4)  The dentist shall maintain the following records for at least 10 years:

(A)  Patient's current written medical history and pre-operative assessment; and

(B)  Drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration.

(5)  The sedation record shall include:

(A)  base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;

(B)  procedure start and end times;

(C)  gauge of needle and location of IV on the patient, if used;

(D)  status of patient upon discharge;

(E)  documentation of complications or morbidity; and

(F)  consent form, signed by the patient or guardian, identifying the procedure, risks and benefits, level of sedation, and date signed.

(6)  The following conditions shall be satisfied during a sedation procedure:

(A) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.  
(B) If IV sedation is used, IV infusion shall be administered before the start of the procedure and maintained until the patient is ready for discharge.  
(b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a patient, including the deployment of an intravenous delivery system, while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:

(1)  monitoring blood pressure, pulse, ET CO2 if capnography is utilized, 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 BLS certified auxiliaries;

(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 and hypotension;

(8) allergic reactions;

(9) convulsions;

(10) syncope;

(11) bradycardia;

(12) hypoglycemia;

(13) cardiac arrest; and

(14) airway obstruction.

(d) A moderate conscious sedation permit holder shall evaluate a patient for health risks before starting any sedation procedure as follows:

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

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

(e) Post-operative monitoring and discharge:

(1)  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 recovered as defined in Subparagraph (e)(2) of this Rule and is ready for discharge from the office.

(2)  recovery from moderate conscious sedation shall include documentation of the following:

(A)  cardiovascular function stable;

(B)  airway patency uncompromised;

(C)  patient 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 special needs patients or patients 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.

(3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (e)(2) of this Rule and the following discharge criteria:

(A)  oxygenation, circulation, activity, skin color, and level of consciousness are 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; and

(C)  a vested adult is available to transport the patient after discharge.

*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. June 1, 2017; November 1, 2013; July 1, 2010; July 3, 2008; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

*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. September 1, 2014; February 1, 2009; July 3, 2008; August 1, 2004; Repealed Eff. April 1, 2016.*

**21 NCAC 16Q .0304 OFF SITE USE OF MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION PERMITS**

The holder of a moderate conscious sedation permit may travel to the office of a licensed dentist and provide moderate conscious sedation for the patients of that dentist who are undergoing dental procedures. The permit holder shall be responsible to ensure that the facility where the sedation is administered has passed inspection by the Board and meets the requirements set out in Rule .0302 of this Section. The permit holder shall be responsible to ensure that the facility is staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

*History Note: Authority G.S. 90-28; 90-30; 90-30.1; 90-48;  
Recodified from 21 NCAC 16Q .0302(e)(f), Eff. November 1, 2013;*

*Amended Eff. June 1, 2017;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16Q .0305 ANNUAL RENEWAL OF MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION PERMIT REQUIRED**

(a) Moderate conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar ($100.00) fee and completing the application requirements in this Rule.  
(b) If the completed permit renewal application and renewal fee are not received before January 31 of each year, a one hundred dollar ($100.00) late fee shall be paid.

(c) Any dentist who fails to renew a moderate conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers moderate conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

(e) As a condition for renewal of the moderate conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0302 of this Section and shall document the following:

(1) six 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)  airway management;

(2)  unexpired ACLS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) Rule;

(3)  that the permit holder and all auxiliaries involved in sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;

(4)  that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and

(5)  that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a moderate conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0306 PROCEDURE FOR MODERATE CONSCIOUS SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION**

(a) When an evaluation or on-site inspection is required, the Board shall designate one or more qualified persons to serve as evaluators each of whom has administered moderate conscious sedation for at least three years preceding the inspection. Training in moderate conscious sedation shall not be counted in the three years.  
(b) An inspection fee of three hundred seventy five dollars ($375.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers moderate conscious sedation.

(c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.  
(d) 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."  
(e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.  
(f) An applicant who fails an inspection or evaluation shall not receive a permit to administer moderate conscious sedation. If a permit holder fails an evaluation, the permit shall be summarily suspended as provided by G.S. 150B- 3(c). If a permit holder's facility fails an inspection, no further sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.  
(g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. The Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.  
(h) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48; Eff April 1, 2016;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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**

*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. February 1, 2009; July 3, 2008; Repealed Eff. April 1, 2016.*

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

(a) Before a dentist licensed to practice in North Carolina may administer moderate pediatric conscious sedation, the dentist shall obtain a general anesthesia or moderate pediatric conscious sedation permit from the Board by completing the application requirements of this Rule and paying a fee of three hundred seventy-five dollars ($375.00) that includes the one-hundred dollar ($100.00) application fee and the two-hundred seventy-five dollar ($275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the unexpired renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

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

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

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

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

(c) All applicants for moderate pediatric conscious sedation permits shall have completed the training required by Paragraph (b) of this Rule within the last two years or show evidence of moderate pediatric conscious sedation practice within the last two years in another state or U.S. Territory.  
(d) All applicants for moderate pediatric conscious sedation permits shall be in good standing with the Board.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48; Eff. June 1, 2017.*

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

(a) A dentist administering moderate pediatric conscious sedation shall be responsible to ensure that the facility where the sedation is administered meets the following requirements:

(1)  The facility shall be equipped with the following:

(A)  an operatory of size and design to permit access of emergency equipment and personnel and to permit 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 back-up lighting;

(D)  suction equipment as necessary for specific procedures, including non-electrical back-up suction;

(E)  positive oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;

(F)  oral and nasal airways of various sizes;

(G)  blood pressure monitoring device;

(H)  pulse oximeter;

(I)  precordial stethoscope or capnograph;

(J)  defibrillator;

(K)  EKG monitor;

(L)  thermometer;

(M)  vascular access set-up as necessary for specific procedures, including hardware and fluids;

(N)  syringes as necessary for specific procedures;

(O)  advanced airways; and

(P)  tourniquet and tape.

(2)  The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:

(A)  epinephrine;

(B)  Atropine;

(C)  appropriate reversal agents;

(D)  antihistamine;

(E)  corticosteroid;

(F)  nitroglycerine;

(G)  bronchodilator;

(H)  antiemetic; and

(I)  Dextrose.

(3)  The permit holder shall maintain written emergency and patient discharge protocols and training to familiarize auxiliaries in the treatment of clinical emergencies shall be provided;

(4)  The following records are maintained for at least 10 years:

(A)  patient's current written medical history and pre-operative assessment;

(B)  drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration;

(C)  a sedation record;

(D)  a consent form, signed by the patient or a guardian, identifying the procedure, risks and benefits, level of sedation, and date signed.

(5)  The sedation record shall include:

(A)  base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;

(B)  procedure start and end times;

(C)  gauge of needle and location of IV on the patient, if used;

(D)  status of patient upon discharge; and demonstrate observes.

(E) documentation of complications or morbidity; and

(6) The following conditions shall be satisfied during a sedation procedure:

(A)  the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure; and

(B)  when IV sedation is used, IV infusion shall be administered before the commencement of the procedure and maintained until the patient is ready for discharge.

(b) During an demonstrate the administration of moderate pediatric conscious sedation on a live patient, including the deployment of an intravenous delivery system, while the evaluator observes. Applicants and permit holders who do not use IV sedation shall describe the proper deployment of an intravenous delivery system to the evaluator and shall inspection or evaluation, applicants and permit holders who use intravenous sedation shall the administration of moderate pediatric conscious sedation on a live patient while the evaluator the observes.

(c) During the demonstration, all applicants and permit holders 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 BLS certified auxiliaries;

(6) monitoring of patient during recovery; and

(7) sufficiency of patient recovery time.

(d) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency 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 and hypotension;

(8) allergic reactions;

(9) convulsions;

(10) syncope;

(11) bradycardia;

(12) hypoglycemia;

(13) cardiac arrest;

(14) airway obstruction; and

(15) vascular access.

(e) A moderate pediatric conscious sedation permit holder shall evaluate patients for health risks before starting any sedation procedure as follows:

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

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

(f) Patient monitoring:

(1)  Patients who have been administered moderate pediatric conscious sedation shall be monitored for alertness, responsiveness, breathing, and skin coloration during waiting periods before operative procedures.

(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 recovered as defined in Subparagraph (f)(3) of this Rule and is ready for discharge from the office.

(3) Recovery from moderate pediatric conscious sedation shall include documentation of the following:

(A)  cardiovascular function stable;

(B)  airway patency uncompromised;

(C)  patient 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 special needs patient or a patient 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.

(4) Before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (f)(3) 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 a responsible adult at time of discharge;

(C)  a vested adult is available to transport the patient after discharge; and

(D)  a vested adult shall be available to transport patients for whom a motor vehicle restraint system is required and an additional responsible individual shall be available to attend to the patients.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0406 OFF SITE USE OF MODERATE PEDIATRIC CONSCIOUS SEDATION PERMITS**

The holder of a moderate pediatric conscious sedation permit may travel to the office of a licensed dentist and provide moderate pediatric conscious sedation. The permit holder shall be responsible to ensure that the facility where the sedation is administered has been inspected by the Board as required by Rule .0404 of this Section, and that the equipment, facility, and auxiliaries meet the requirements of Rule .0405 of this Section.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0407 ANNUAL RENEWAL OF MODERATE PEDIATRIC CONSCIOUS SEDATION PERMIT REQUIRED**

(a) Moderate pediatric conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred ($100.00) fee and completing the application requirements in this Rule.  
(b) If the completed renewal application and renewal fee are not received before January 31 of each year, a one hundred ($100.00) late fee shall be paid.

(c) Any dentist who fails to renew a moderate pediatric conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers moderate pediatric conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.  
(e) As a condition for renewal of the moderate pediatric conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0405 of this Section and shall document the following:

(1) six 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)  airway management;

(2)  unexpired PALS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) of this rule;

(3)  that the permit holder and all auxiliaries involved in sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year.

(4)  that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and

(5)  that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a moderate pediatric conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0408 PROCEDURE FOR MODERATE PEDIATRIC SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION**

(a) When an evaluation or on-site inspection is required, the Board shall designate one or more qualified persons to serve as evaluators, each of whom has administered moderate pediatric sedation for at least three years preceding the evaluation or inspection. Training in moderate pediatric sedation shall not count toward the three years.  
(b) An inspection fee of three hundred seventy five dollars ($375.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers moderate pediatric sedation.

(c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.  
(d) 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."  
(e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.  
(f) An applicant who fails an inspection or evaluation shall not receive a permit to administer moderate pediatric sedation. If a permit holder fails an evaluation, the permit shall be summarily suspended as provided by G.S. 150B- 3(c). If a permit holder's facility fails an inspection, no further sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.  
(g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and include a statement of the grounds supporting the re-evaluation or re-inspection. The Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.  
(h) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48; Eff. April 1, 2016;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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:

(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;

(F)  audit ACLS/Pediatric Advanced Life Support (PALS) courses; and

(G)  airway management; or

(2)  document current, successful completion of ACLS training or its age-specific equivalent, or other equivalent course and annual successful completion of BLS.

(e) moderate pediatric conscious sedation permit holders must have current PALS at all times.  
(f) 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; and

(7)  airway management.

(g) 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. November 1, 2013; July 3, 2008; August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0600 - REPORTING AND PENALTIES**

**21 NCAC 16Q .0601 REPORTS OF ADVERSE OCCURRENCES 21 NCAC 16Q .0602 FAILURE TO REPORT**

*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; Transferred and Recodified from 16Q .0502 to 16Q .0602; Temporary Amendment Eff. December 11, 2002; Amended Eff. August 1, 2004;  
Repealed Eff. April 1, 2016.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16Q .0703 REPORTS OF ADVERSE OCCURRENCES**

(a) A dentist who holds a permit to administer general anesthesia or sedation shall report to the Board within 72 hours after each adverse occurrence related to the administration of general anesthesia or sedation that results in the death of a patient within 24 hours of the procedure. Sedation permit holders shall cease administration of sedation until the Board has investigated the death and approved resumption of permit privileges. General anesthesia permit holders shall cease administration of general anesthesia and sedation until the Board has reviewed the incident report and approved resumption of permit privileges.

(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 that results in permanent organic brain dysfunction of a patient occurring within 24 hours of the procedure or that results in physical injury or severe medical emergencies, causing hospitalization of a patient occurring within 24 hours of the procedure.  
(c) The adverse occurrence report shall be in writing and shall include the following:

(1)  dentist's name, license number and permit number;

(2)  date and time of the occurrence;

(3)  facility where the occurrence took place;

(4)  name and address of the patient;

(5)  surgical procedure involved;

(6)  type and dosage of sedation or anesthesia utilized in the procedure;

(7)  circumstances involved in the occurrence; and

(8)  anesthesia records.

(d) Upon receipt of any such report, the Board shall investigate and shall take disciplinary action if the evidence demonstrates that a licensee has violated the Dental Practice Act set forth in Article 2 of G.S. 90 or the Board's rules of this Chapter.

*History Note: Authority G.S. 90-28; 90-30.1; 90-41; 90-48; Eff. April 1, 2016;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16R - CONTINUING EDUCATION REQUIREMENTS: DENTISTS SECTION .0100 - RENEWAL OF LICENSE**

**21 NCAC 16R .0101 APPLICATIONS**

(a) A renewal application shall be completed and received in the Board's office before midnight on January 31 of each year. The renewal form may be obtained on the board's website: www.ncdentalboard.org.  
(b) Eligible licensees as defined by Rule .0206 of this Subchapter shall be granted an extension period in accordance with 26 U.S.C. 7508 in which to pay license, general anesthesia, and sedation permit renewal fees, obtain CPR certification, renew professional association and corporation registrations and comply with the Dental Board's continuing education rules.

*History Note: Authority G.S. 90-28; 90-31; 90-39; 93B-15; Eff. April 1, 2003;*

*Amended Eff. July 1, 2015; February 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0102 FEE FOR LATE FILING AND DUPLICATE LICENSE**

(a) If the application for a renewal certificate, accompanied by the fee required by 21 NCAC 16M .0101, is not received in to the Board's office before midnight 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. 90-31; 90-39;  
Eff. April 1, 2003;  
Amended Eff. July 1, 2015; February 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0103 21 NCAC 16R .0104 21 NCAC 16R .0105**

**CONTINUING EDUCATION REQUIRED APPROVED COURSES AND SPONSORS REPORTING OF CONTINUING EDUCATION**

**21 NCAC 16R .0106 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION**

**21 NCAC 16R .0107 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION**

*History Note: Authority G.S. 90-31.1; 90-38; Eff. May 1, 1994;*

*Amended Eff. Amended Eff. November 1, 2008; September 1, 2008; February 1, 2008; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 1998.  
Repealed Eff. July 1, 2015.*

**21 NCAC 16R .0108 LICENSE VOID UPON FAILURE TO TIMELY RENEW**

If an application for a renewal certificate, accompanied by the renewal fee and any applicable late filing fees required by 21 NCAC 16M .0101 is not received in the Board's office before midnight on March 31 of each year, the license shall become void and the applicant must apply for reinstatement. A copy of the reinstatement application form and the location of the Board's office can be found at www.ncdentalboard.org.

*History Note: Authority G.S. 90-31; 90-34; Eff. July 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0110 RENEWAL CERTIFICATE MUST BE DISPLAYED**

The current certificate of renewal of license for a dentist shall be posted where it is visible to patients receiving treatment in the office where the dentist is employed, and shall be exhibited or produced to the North Carolina State Board of Dental Examiners or its investigators during every visit to the office.

*History Note:*

*Authority G.S. 90-33;  
Eff. July 1, 2015;  
Amended Eff. August 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0200 - CONTINUING EDUCATION**

**21 NCAC 16R .0201 CONTINUING EDUCATION REQUIRED**

(a) Except as permitted in Rule .0204 of this Section as a condition of license renewal, every dentist shall complete a minimum of 15 clock hours of continuing education each calendar year.  
(b) One hour of the total required continuing education hours shall consist of a course designed to address prescribing practices, including instruction on controlled substance prescribing practices and controlled substance prescribing for chronic pain management.

(c) Any or all of the hours may be acquired through self-study courses, provided that the self-study courses shall be related to clinical patient care and offered by a Board approved sponsor listed in Rule .0202 of this Section. The dentist shall pass a test following every self-study course and obtain a certificate of completion.  
(d) Courses taken to maintain current CPR certification shall not count toward the mandatory continuing education hours set forth in this Rule.

*History Note: Authority G.S. 90-31.1; Eff. July 1, 2015;*

*Amended Eff. August 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0202 APPROVED COURSES AND SPONSORS**

(a) Courses allowed to satisfy the continuing education requirement shall be related to clinical patient care. Hours devoted to financial issues or practice development topics shall 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 .0201 of this Section 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. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0203 REPORTING CONTINUING EDUCATION**

(a) All licensed dentists shall report the number of continuing education hours completed annually on the license renewal application form submitted to the Board. The organization offering or sponsoring each course shall provide to each attendee a report containing the following information:

(1) course title;

(2) number of hours of instruction;

(3) date of the course attended;

(4) name(s) of the course instructor(s); and

(5) name of the organization offering or sponsoring the course.

(b) Evidence of employment by or affiliation with an agency or institution as specified in Rule .0204(c) of this  
Section shall be verified by a director or official acting in a supervisory position.  
(c) All licensed dentists shall maintain the report referred to in Paragraph (a) of this Rule for at least two years following completion of the course and shall produce a copy of the report to the Board or its investigator during every Board audit of the licensee's continuing education hours.

*History Note: Authority G.S. 90-31.1; Eff. July 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0204 VARIANCES AND EXEMPTION FROM AND CREDIT FOR CONTINUING EDUCATION**

(a) Upon receipt of written evidence, the Board may grant exemptions from the mandatory continuing education requirements set out in Rule .0201 of this Section as follows:

(1)  A dentist who practices not more than 250 clock hours in a calendar year shall be exempt from all continuing education requirements. Such dentists, who shall be known as semi-retired Class I dentists, shall 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, shall 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 unable to practice dentistry because of a physical or mental illness 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 Paragraph (a) of this Rule 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 before allowing the licensee to resume practice if there is evidence that the licensee is unable to practice dentistry competently, such as a failing score on a dental licensing examination, a written report of a licensed physician, evaluation conducted by a substance abuse treatment facility, appointment of a guardian for the dentist or adjudication of incompetence by a court.

(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 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 related to dentistry or dental auxiliaries. Verification of credit hours shall be maintained in the manner specified in Rule .0203 of this Section.

(d) Dentists 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 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. Credit will be given at ratio of 1:5, with one hour credit given for every five hours of volunteer work.  
(f) Eligible licensees as defined by Rule .0206 of this Section shall be granted a waiver of their mandatory continuing education requirements.

*History Note: Authority G.S. 90-31.1; 90-38; Eff. July 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16R .0205 PENALTY/NON-COMPLIANCE/CONTINUING EDUCATION**

If an applicant for a renewal of license fails to provide proof of completion of reported continuing education hours for the current year as required by Rule .0203 of this Section, the Board shall refuse to issue a renewal certificate until the licensee completes the required hours of education for the current year and complies with the requirements of Rules 21 NCAC 16R .0101 and .0102. If an 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 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 midnight on March 31 of each year, the license shall become void and the licensee must seek reinstatement.

*History Note: Authority G.S. 90-31.1;  
Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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" -- the North Carolina State Board of Dental Examiners;

(2)  "Impairment" -- chemical dependency or mental illness;

(3)  "Board of Directors" -- 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" -- 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" -- 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" -- the two hygienists appointed by the Dental Board and 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. July 1, 2015; April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

The Board may 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. July 1, 2015; April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16S .0202 CONFIDENTIALITY**

Information received by the Program regarding voluntary participants shall remain confidential and shall not be released to the Dental Board or members of the public, except as set out in Rule .0203(b) of this Section. Voluntary participants who meet the requirements of Rule .0203(b) of this Section shall be reported to the Board along with evidence of the events leading to the report. Information received about participants referred to the Program by the Board shall be exchanged with the Board or its investigators.

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

*Amended Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16T – PATIENT RECORDS SECTION .0100 – PATIENT RECORDS**

**21 NCAC 16T .0101 RECORD CONTENT**

A dentist shall maintain complete treatment records on all patients for a period of at least 10 years from the last treatment date. Treatment records may include such information as the dentist deems appropriate but shall 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;
6. Name and strength of any medications prescribed, dispensed, or administered along with the quantity and date provided;
7. Work orders issued during the past two years;
8. Treatment plans for patients of record, except that treatment plans are not required for patients seen only on an emergency basis;
9. Diagnostic radiographs, orthodontic study models, and other diagnostic aids, if taken;
10. Patients' financial records and copies of all insurance claim forms; and
11. Rationale for prescribing each narcotic.

*History Note: Authority G.S. 90-28; 90-48;  
Eff. October 1, 1996;  
Amended Eff. May 1, 2016; July 1, 2015.*

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

A dentist shall, upon request by the patient of record, provide all information required by the Health Insurance Portability and Accountability Act (HIPAA) and this Rule, including original or diagnostic copies of radiographs and a legible copy of all treatment records to the patient or to a licensed dentist identified by the patient. The dentist may charge a fee not exceeding the actual cost of duplicating the records. The records shall be provided within 30 days of the request and production 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. July 1, 2015; April 1, 2014; November 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16U - INVESTIGATIONS SECTION .0100 - PROCEDURES**

**21 NCAC 16U .0101 SECRETARY-TREASURER**

The Board's Secretary-Treasurer or another Board member appointed by the Secretary-Treasurer 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 Secretary- Treasurer 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 that 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;*

*Amended Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16U .0102 INVESTIGATIVE PANEL**

The Secretary-Treasurer or another Board member appointed by the Secretary-Treasurer shall chair the Investigative Panel. The Board's Counsel, Director of Investigations, Investigators and other staff members appointed by the Secretary-Treasurer shall serve on the Panel. The Investigative Panel shall conduct investigations and prepare and present the Board's case in all reinstatement cases, and disciplinary proceedings and in civil actions to enjoin the unlawful practice of dentistry.

*History Note: Authority G.S. 90-28; 90-41; 90-41.1; 90-48; 90-223; 90-231; 150B-40; Eff. October 1, 1996;*

*Amended Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16U .0103 REPORTS FROM THE CONTROLLED SUBSTANCES REPORTING SYSTEM**

The Department of Health and Human Services (DHHS) may submit a report to the North Carolina State Board of Dental Examiners if it receives information that DHHS believes provides a basis to investigate whether a dentist has issued prescriptions for controlled substances in a manner that may violate laws governing the prescribing of controlled substances or the practice of dentistry.

*History Note: Authority G.S. 90-41; 90-113.74; Eff. July 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0200 - COMPLAINTS**

**21 NCAC 16U .0201 PROCESSING**

Licensees 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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SECTION .0100 - UNPROFESSIONAL CONDUCT**

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

Unprofessional conduct by a dentist shall include the following:

(1)  Having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, 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 the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;

(3)  Committing any act that would constitute sexual assault or battery as defined by Chapter 14 of the North Carolina General Statutes in connection with the provision of dental services;

(4)  Violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;

(5)  Conspiring with any person to commit an act, or committing an act that 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, which does not include 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 State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug Administration, and the Environmental Protection Agency;

(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;

(13)  Failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;

(14)  Failing to file a truthful response to a notice of complaint within the time allowed in the notice;

(15)  Failing to notify the Board of a change in current physical address within 10 business days;

(16)  Permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks;

(17)  Failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;

(18) Soliciting employment of potential patients by live telephone solicitation or permitting or directing another to do so;

(19) Giving or paying anything of value in exchange for a promise to refer or referral of potential patients;

(20) Failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;

(21) Withholding or refusing treatment to an existing patient conditioned upon payment of an outstanding balance;

(22) Using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;

(23) Making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so;

(24) Making material false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board;

(25) Refusing to permit a Board agent or employee to conduct a sterilization inspection;

(26) Acquiring any controlled substance from any source by fraud, deceit or misrepresentation; and

(27) Practicing outside the scope of dentistry, as set forth in G.S. 90-29.

*History Note: Authority G.S. 90-28; 90-29;90-41; 90-48; 90-223(b);  
Eff. August 1, 1998;  
Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16V .0102 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTAL HYGIENIST**

Unprofessional conduct by a dental hygienist shall include the following:

(1)  Having professional discipline imposed, including the denial of licensure, by the dental hygiene licensing authority of another state, territory, or country. For purposes of this Rule, 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 that would constitute sexual assault or battery as defined by Chapter 14 of the North Carolina General Statutes in connection with the provision of dental hygiene services;

(4)  Violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;

(5)  Conspiring with any person to commit an act, or committing an act that 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, an employer, 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;

(10)  Failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;

(11)  Failing to file a truthful response to a notice of complaint, within the time allowed in the notice;

(12)  Failing to notify the Board of a change in current physical address within 10 business days;

(13)  Working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in the office is greater than 2:1;

(14)  Soliciting employment of potential patients in person or by telephone or assisting another person to do so;

(15) Giving or paying anything of value in exchange for a promise to refer or referral of potential patients;

(16) Using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;

(17) Making misleading or untruthful statements for the purpose of procuring potential patients or assisting another to do so;

(18) Making material false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigation by the Board; and

(19) Practicing outside the scope of dental hygiene, as defined in 90-221(a).

*History Note: Authority G.S. 90-29; 90-221; 90-223; 90-229;  
Eff. August 1, 1998;  
Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000; September 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16W - PUBLIC HEALTH HYGIENISTS SECTION .0100 - PUBLIC HEALTH HYGIENISTS**

**21 NCAC 16W .0101 DIRECTION DEFINED**

(a) Pursuant to G.S. 90-233(a), a public health hygienist may perform clinical procedures "under the direction of a licensed dentist," as defined by 21 NCAC 16Y .0104(c) of this Chapter, who is employed by a State government dental public health program or a local health department as a public health dentist.  
(b) The specific clinical procedures delegated to the hygienist shall be completed, in accordance with a written order from the dentist, within 120 days of the dentist's in-person evaluation of the patient.

(c) The dentist's evaluation of the patient shall include a comprehensive oral examination, medical and dental health history, and diagnosis of the patient's condition.  
(d) Direction of a licensed dentist is not required for public health hygienists who provide only educational information, such as instruction in brushing and flossing.

*History Note: Authority G.S. 90-223; 90-233(a);  
Temporary Adoption Eff. October 1, 1999;  
Eff. April 1, 2001;  
Amended Eff. April 1, 2016; July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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)  current CPR certification, taken in a live hands-on course;

(3)  six hours of continuing education in medical emergencies each year in addition to the minimum continuing education required for license renewal; 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 4,000 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; Amended Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**SUBCHAPTER 16Y - INTERN PERMITTING: DENTISTS**

**21 NCAC 16Y .0101 ELIGIBILITY REQUIREMENTS**

(a) 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.

(b) An intern permit shall not be granted to an individual who:

(1) lacks good moral character;

(2) has been disciplined by any dental board or other licensing body in another state or country.

*History Note: Authority G.S. 90-28; 90-29.4; 90-30;  
Eff. August 1, 2002;  
Amended Eff. July 1, 2015; August 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 shall:

(1)  complete the Application for Intern Permit available on the Board's website: www.ncdentalboard.org.

(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)  pass written examination(s) approved by the Board, as set out on its website: www.ncdentalboard.org. and

(6)  pay the nonrefundable intern permit fee referred to in 21 NCAC 16M .0101(a)(5).

(b) Applicants for intern permit who are graduates of a dental program as set out in Rule .0101(2) of this Subchapter shall:

(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)  complete a simulated clinical offered by a Board-approved provider set out on its website: www.ncdentalboard.org.

(4)  submit written confirmation that the applicant has 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)  complete written examination(s) administered by the Board; and

(8)  pay the non-refundable intern permit fee referred to in 21 NCAC 16M .0101(a)(5).

(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. July 1, 2015; January 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 nonprofit 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 approved sites is available on the Board's website: www.ncdentalboard.org.

(c) A request for change in practice location shall: 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 an allowance for salaries or other compensation for personal services provided.

*History Note: Authority G.S. 90-28; 90-29.4; Eff. August 1, 2002; Amended Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**21 NCAC 16Y .0104 DIRECTION AND SUPERVISION**

(a) Holders of a valid intern permit who are currently licensed in Canada or a U.S. territory or state may practice under direction of one or more dentists with a current and valid North Carolina license. The directing dentist shall be responsible for all consequences or results arising from the permit holder's practice of dentistry.  
(b) Holders of a valid intern permit who are not currently licensed in Canada or a U.S. territory or state may work only under supervision of one or more dentists with a current and valid North Carolina license. The supervising dentist shall be responsible for all consequences or results arising from the permit holder's practice of dentistry.

(c) Holders of any valid intern permit under this Rule who are required to be on-call, either in-person or by electronic means, in an emergency setting may practice under the direction or supervision of a dentist following the accrediting standard of the Commission on Dental Accreditation (CODA).  
(d) For purposes of this Rule, the acts of a permit holder 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 the acts that are being performed pursuant to the dentist's order, control, and approval.

(e) For purposes of this Rule, the acts of a permit holder 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 the acts that are being performed pursuant to the dentist's order, control, and approval.  
(f) The CODA accrediting standard and its subsequent amendments and editions, which are incorporated herein by reference, are published on the American Dental Association's website located at http://www.ada.org/en/coda/policies-and-guidelines/policy-and-procedure-manual, and are available at no cost.

*History Note: Authority G.S. 90-28; 90-29.4; Eff. August 1, 2002; Amended Eff. November 1, 2017; July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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 shall:

(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 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)  maintain current CPR certification;

(5)  complete at least six hours of Board approved continuing education in dental office medical emergencies, in addition to the minimum hours of continuing education required for license renewal. A list of Board-approved sponsors appears in 21 NCAC 16I .0103.

(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 shall:

(1) complete at least six hours of Board approved continuing education in dental office medical emergencies each year, in addition to the minimum hours of continuing education required for license renewal;

(2) maintain current 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 with all 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;  
Amended Eff. July 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*