



NOTICE OF TEXT

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

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

Notice with a scheduled hearing

Notice without a scheduled hearing

Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.

Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: [Board of Dental Examiners](#)

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

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

ADOPTION:

AMENDMENT: [21 NCAC 16F .0104-.0105; 16I .0101; 16N .0403; 16R .0101-.0102, .0108](#)

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

4. Proposed effective date: [09/01/2020](#)

5. Is a public hearing planned? [Yes](#)

If yes:

Date	Time	Location
06/11/2020	6:30 pm	2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

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

7. Explain Reason For Proposed Rule(s):

21 NCAC 16F .0104, 21 NCAC 16F .0105, 21 NCAC 16I .0101, 21 NCAC 16R .0101, 21 NCAC 16R .0102, and 21 NCAC 16R .0108 are proposed for amendment to make them consistent with the content and structure of all other amended application rules. 21 NCAC 16N .0403 is proposed for amendment to update the statutory citation and to match the statute's timeframe for a declaratory ruling.

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

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

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

Name: Bobby White
Address: 2000 Perimeter Park Drive, Suite 160
Morrisville, NC 27560
Phone (optional):
Fax (optional):
EMail (optional)

10. Comment Period Ends: 06/15/2020

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

No fiscal note required

12. Rule-making Coordinator:

Name: Doug Brocker
919-424-6334
doug@brockerlawfirm.com

Agency contact, if any:

Name:
Phone:
Email:

13. The Agency formally proposed the text of this rule(s) on

Date: 12/13/2019

1 21 NCAC 16F .0104 is proposed for amendment as follows:

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3 **21 NCAC 16F .0104 CERTIFICATE OF REGISTRATION**

4 (a) ~~Each professional corporation, association, or limited liability company shall submit an application~~Application
5 for a certificate of registration ~~shall be made in writing to the Board, and shall be submitted upon~~ on the form provided
6 by the Board for that purpose. ~~The application shall be accompanied by a certified copy of the certificate of~~
7 ~~incorporation and articles of incorporation of a P.A. or P.C. or a certified copy of the articles of organization of a~~
8 ~~P.L.L.C., together with a check in the amount of fifty dollars (\$50.00) in payment of the registration fee.~~ purpose, and
9 shall include the following information:

- 10 (1) name of the company;
11 (2) street address of the company;
12 (3) mailing address of the company, if different from the street address;
13 (4) email address of the company;
14 (5) name, address, and dental license number of each shareholder or member, and each dentist to be
15 employed by the company once it is registered;
16 (6) name, address, and occupation of each corporation director and officer, or each limited liability
17 company manager; and
18 (7) name, address, and duties of each person, other than dentists, to be employed by the company once
19 it is registered.

20 (b) The application shall be:

- 21 (1) signed by the president or vice president of the professional corporation or association or by a
22 manager of the professional limited liability company, and notarized;
23 (2) submitted to the Board with all the information listed in Paragraph (a) of this Rule;
24 (3) accompanied by the registration fee of fifty dollars (\$50.00); and
25 (4) accompanied by a certified copy of the certificate of incorporation and articles of incorporation of
26 the professional corporation or association or a certified copy of the articles of organization of the
27 professional limited liability company. For purposes of this Subparagraph, "certified" means the
28 copy is accompanied by certification of filing from the Secretary of State as set forth in G.S. 55D-
29 17.

30 ~~(b)(c)~~(c) The initial certificate of registration shall remain effective for one year from the date of issuance thereof,
31 issuance, unless suspended or terminated as by law provided, provided in G.S. 55B-13, and each subsequent renewal
32 of the certificate shall be effective for a period of one year from the date of issue.

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34 *History Note: Authority G.S. 55B-10; 57D-2-01; 90-48;*
35 *Eff. September 3, 1976;*
36 *Readopted Eff. September 26, 1977;*
37 *Amended Eff. August 1, 2009; April 1, 1994; May 1, 1989;*

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

1 21 NCAC 16F .0105 is proposed for amendment as follows:

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3 **21 NCAC 16F .0105 APPLICATION FOR RENEWAL**

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

- 8 (1) name of the company as shown on the certificate of registration;
- 9 (2) name of the company as of the date of the application for renewal, if the company name has been
10 amended;
- 11 (3) street address of the company;
- 12 (4) mailing address of the company, if different from the street address;
- 13 (5) email address of the company; and
- 14 (6) name and dental license number of each dentist practicing under the company.

15 (b) The application shall be submitted by the president or vice president of the professional corporation or association
16 or by a manager of the professional limited liability company to the Board with all the information listed in Paragraph
17 (a) of this Rule, accompanied by the renewal fee of twenty-five dollars (\$25.00).

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19 *History Note: Authority G.S. 55B-11; 57D-2-01; 90-48;*
20 *Eff. September 3, 1976;*
21 *Readopted Eff. September 26, 1977;*
22 *Amended Eff. April 1, 1994; May 1, 1989;*
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
24 *~~2018-2018~~;*
25 *Amended Eff. _____.*

1 21 NCAC 16I .0101 is proposed for amendment as follows:

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3 **SUBCHAPTER 16I - ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION**
4 **REQUIREMENTS: DENTAL HYGIENIST**

5
6 **SECTION .0100 - ANNUAL RENEWAL**

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8 **21 NCAC 16I .0101 APPLICATIONS**

9 (a) A renewal application for a dental hygiene license shall be completed and received in the Board's office submitted
10 electronically before midnight on January 31 of each year. Any renewal applications received after that date will
11 require a late fee. year through the Board's website: www.ncdentalboard.org. The renewal application shall include:

12 (1) dental hygiene license number;

13 (2) full name;

14 (3) mailing address and any secondary address the licensee wishes to provide;

15 (4) telephone number;

16 (5) fax number;

17 (6) email address;

18 (7) citizenship or immigration status, with verifying documentation;

19 (8) whether, during the calendar year preceding the application, the licensee has:

20 (A) been summoned to court or before a magistrate for the violation of any law or ordinance or
21 for the commission of any felony or misdemeanor;

22 (B) been arrested for the violation of any law or ordinance or for the commission of any felony
23 or misdemeanor;

24 (C) been taken into custody for the violation of any law or ordinance or for the commission of
25 any felony or misdemeanor;

26 (D) been indicted for the violation of any law or ordinance or for the commission of any felony
27 or misdemeanor;

28 (E) been convicted or tried for the violation of any law or ordinance or for the commission of
29 any felony or misdemeanor;

30 (F) been charged with the violation of any law or ordinance or for the commission of any
31 felony or misdemeanor;

32 (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony
33 or misdemeanor;

34 (H) been disciplined by any professional licensing board; or

35 (I) had a malpractice suit settled or pending against the licensee;

36 (9) whether the licensee has been investigated for employee misclassification as an independent
37 contractor within the five years preceding the application;

- 1 (10) employment status as a dental hygienist as of the date of the application, including:
2 (A) whether the licensee is currently working as a dental hygienist;
3 (B) name of the practice in which the licensee provides services;
4 (C) primary setting in which the licensee provides services;
5 (D) type of employer for which the licensee works; and
6 (E) number of hours the licensee works in an average week;
7 (11) a report of the licensee's completion of continuing education hours related to clinical patient care
8 during the calendar year preceding the application, or the licensee's exemption from reporting;
9 (12) whether the licensee holds an unexpired CPR certification;
10 (13) whether the licensee has been employed as a limited supervision hygienist as set forth in 21 NCAC
11 16Z during the calendar year preceding the application; and
12 (14) a written statement certifying that the information submitted is accurate to the best of the licensee's
13 knowledge.

14 (b) In addition to the requirements of Paragraph (a) of this Rule, the licensee shall mail to the Board the following
15 materials for review by the Board before the license will be renewed:

- 16 (1) for each matter existing under Subparagraph (a)(8) of this Rule, a statement describing the nature,
17 facts, and disposition of the matter, and include a copy, certified by the clerk of court or the
18 applicable licensing board, of the disposition or judgment in the matter; and
19 (2) for each matter under Subparagraph (a)(9) of this Rule, documentation of the results of the
20 investigation.

21 (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule,
22 accompanied by the renewal fees set forth in 21 NCAC 16M .0102, for the renewal application to be complete. If a
23 renewal application is not complete, the license shall not be renewed.

24 (d) Eligible licensees shall be granted an extension period as set out in Rule .0111 of this Subchapter in which to pay
25 renewal fees, obtain CPR certification, and comply with the Board's continuing education rules.

26 (e) Any license obtained through fraud or by any false representation shall be revoked.

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28 *History Note: Authority G.S. 90-227; 93B-15;*

29 *Eff. September 3, 1976;*

30 *Readopted Eff. September 26, 1977;*

31 *Amended Eff. April 1, 2015; February 1, 2008; April 1, 2003; August 1, 1998; May 1, 1989.*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
33 *2018-2018;*

34 *Amended Eff. _____.*

1 21 NCAC 16N .0403 is proposed for amendment as follows:

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21 NCAC 16N .0403 DISPOSITION OF REQUESTS

(a) When the Board deems it appropriate to issue a declaratory ~~ruling~~ ruling, it shall issue ~~such~~ the declaratory ruling as soon as practicable but no longer than the period set out in G.S. 150B-4(a1), ~~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 Board determines to be in the interests of justice and judicial economy based on the content and circumstances of the particular request.~~

(c) Whenever the Board ~~believes~~ finds ~~for good cause exists to deny the request for that the issuance of a declaratory ruling, ruling is undesirable,~~ the Board may ~~refuse~~ deny the request to issue ~~such a declaratory ruling.~~ ~~When good cause is deemed to exist, In that event, the Board will~~ shall 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, good cause for the denial of the Board will ~~ordinarily refuse to issue a declaratory ruling;~~ ruling request may include one of the following:

- (1) ~~Unless the petitioner shows~~ does not show that the circumstances are ~~so~~ changed since the adoption of the rule ~~that such and a declaratory 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;~~ adopted, the Board gave full consideration to the factors specified in the request for a declaratory ruling;
- (3) ~~Where there has been a previous determination of a contested case involving similar factual questions; and or~~
- (4) ~~Where the subject matter of the request is involved in pending litigation in any state~~ State or federal court in North Carolina.

*History Note: Authority G.S. 150B-4;
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, 2018-2018;
Amended Eff. _____.*

1 21 NCAC 16R .0101 is proposed for amendment as follows:

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3 **SUBCHAPTER 16R – ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION**
4 **REQUIREMENTS: DENTIST**

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6 **SECTION .0100 - RENEWAL OF LICENSE**

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8 **21 NCAC 16R .0101 APPLICATIONS**

9 (a) A renewal application for a dental license shall be ~~completed and received in the Board's office~~ submitted
10 electronically before midnight on January 31 of each year. ~~The renewal form may be obtained on the board's year~~
11 through the Board's website: www.ncdentalboard.org. The renewal application shall include:

12 (1) dental license number;

13 (2) full name;

14 (3) mailing address;

15 (4) telephone number;

16 (5) fax number;

17 (6) email address;

18 (7) citizenship or immigration status, with verifying documentation;

19 (8) whether, during the calendar year preceding the application, the licensee has:

20 (A) been summoned to court or before a magistrate for the violation of any law or ordinance or
21 for the commission of any felony or misdemeanor;

22 (B) been arrested for the violation of any law or ordinance or for the commission of any felony
23 or misdemeanor;

24 (C) been taken into custody for the violation of any law or ordinance or for the commission of
25 any felony or misdemeanor;

26 (D) been indicted for the violation of any law or ordinance or for the commission of any felony
27 or misdemeanor;

28 (E) been convicted or tried for the violation of any law or ordinance or for the commission of
29 any felony or misdemeanor;

30 (F) been charged with the violation of any law or ordinance or for the commission of any
31 felony or misdemeanor;

32 (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony
33 or misdemeanor;

34 (H) been disciplined by any professional licensing board; or

35 (I) had a malpractice suit settled or pending against the licensee;

36 (9) whether the licensee has been investigated for employee misclassification as an independent
37 contractor within the five years preceding the application;

- 1 (10) employment status as a dentist as of the date of the application, including:
2 (A) whether the licensee is currently working as a dentist;
3 (B) primary practice area;
4 (C) name of the practice in which the licensee provides services;
5 (D) primary setting in which the licensee provides services;
6 (E) number of hours the licensee works in an average week;
7 (F) whether the licensee is self-employed;
8 (G) if not self-employed, the type of employer for which the licensee works; and
9 (H) if self-employed, the number of dentists, hygienists, and dental assistants working in the
10 licensee's practice;
11 (11) a report of the licensee's completion of continuing education hours related to clinical patient care
12 during the calendar year preceding the application, or the licensee's exemption from reporting;
13 (12) whether the licensee is enrolled in or completed a residency program during the calendar year
14 preceding the application;
15 (13) whether the licensee holds an unexpired CPR certification;
16 (14) whether the licensee employed dental hygienists as limited supervision hygienists as set forth in 21
17 NCAC 16Z during the calendar year preceding the application;
18 (15) whether the licensee is registered with and using the N.C. Controlled Substances Reporting System
19 as of the date of the application;
20 (16) whether the licensee has an active U.S. Drug Enforcement Administration license as of the date of
21 the application to prescribe schedule II-IV controlled medications;
22 (17) whether the licensee has completed at least one hour of continuing education in controlled substance
23 prescribing practices and controlled substance prescribing for chronic pain management during the
24 calendar year preceding the application; and
25 (18) a written statement certifying that the information submitted is accurate to the best of the licensee's
26 knowledge.

27 (b) In addition to the requirements of Paragraph (a) of this Rule, the licensee shall mail to the Board the following
28 materials for review by the Board before the license will be renewed:

- 29 (1) for each matter existing under Subparagraph (a)(8) of this Rule, a statement describing the nature,
30 facts, and disposition of the matter, and include a copy, certified by the clerk of court or the
31 applicable licensing board, of the disposition or judgment in the matter; and
32 (2) for each matter under Subparagraph (a)(9) of this Rule, documentation of the results of the
33 investigation.

34 (c) The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule,
35 accompanied by the renewal fees set forth in 21 NCAC 16M .0101, for the renewal application to be complete. If a
36 renewal application is not complete, the license will not be renewed.

1 ~~(b)(d)~~ Eligible licensees as defined by Rule .0206 of this Subchapter shall be granted an extension period in
2 accordance with ~~26 U.S.C. 7508~~ as set out in 21 NCAC 16B .0900 in which to pay license, general anesthesia, and
3 sedation permit renewal fees, obtain CPR certification, renew professional association and corporation registrations
4 and comply with the Dental Board's continuing education rules.

5 (e) Any license obtained through fraud or by any false representation shall be revoked.

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7 *History Note: Authority G.S. 90-28; 90-31; 90-39; 93B-15;*

8 *Eff. April 1, 2003;*

9 *Amended Eff. July 1, 2015; February 1, 2008;*

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

11 *~~2018-2018;~~*

12 *Amended Eff. _____.*

1 21 NCAC 16R .0102 is proposed for amendment as follows:

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3 **21 NCAC 16R .0102 FEE FOR LATE FILING AND DUPLICATE LICENSE**

4 (a) If the application for a renewal certificate, including all information and documentation set out in Rule .0101 of
5 this Subchapter and accompanied by the renewal fees ~~fee~~ required by 21 NCAC 16M .0101, is not received in ~~to~~ the
6 Board's office before midnight on January 31 of each year, an additional fee ~~of fifty dollars (\$50.00)~~ for late renewal
7 shall be charged for the renewal certificate as set out in 21 NCAC 16M .0101.

8 (b) A fee ~~of twenty-five dollars (\$25.00)~~ shall be charged for each duplicate of any license or certificate issued by the
9 ~~Board.~~ Board as set out in 21 NCAC 16M .0101.

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11 *History Note: Authority G.S. 90-31; 90-39;*

12 *Eff. April 1, 2003;*

13 *Amended Eff. July 1, 2015; February 1, 2008;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,*
15 *2018-2018;*

16 *Amended Eff. _____.*

1 21 NCAC 16R .0108 is proposed for amendment as follows:

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3 **21 NCAC 16R .0108 LICENSE VOID UPON FAILURE TO TIMELY RENEW**

4 If an application for a renewal certificate, including all information and documentation set out in Rule .0101 of this
5 Subchapter and accompanied by the renewal fee and any applicable late filing fees required by 21 NCAC 16M .0101
6 .0101, is not received in the Board's office before midnight on March 31 of each year, the license shall become void
7 and the applicant ~~must~~ shall apply for reinstatement. ~~A copy of the reinstatement application form and the location of~~
8 ~~the Board's office can be found at www.ncdentalboard.org~~ reinstatement in accordance with 21 NCAC 16B .1101.

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10 *History Note: Authority G.S. 90-31; 90-34;*

11 *Eff. July 1, 2015;*

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

13 *~~2018-2018;~~*

14 *Amended Eff. _____.*