

Revisions to Rule the Public Hygiene Rule 21 NCAC 16W .0101 and .0104

What has changed?

Newly adopted changes to 21 NCAC 16W .0101 and the addition of 21 NCAC 16W .0104 allow public health hygienists to work pursuant to a standing order in certain facilities in designated dental access shortage areas.

How do the new rules work?

First: No rules have changed for dentists and dental hygienists in private practice. Supervision of auxiliaries and delegable duties remain unchanged. “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.” [NCGS 90-233(b)] The new rules apply **ONLY** to dentists employed by a federal, state, county, or local government and are, therefore, not considered to be in private practice.

Second: The key condition is employment. Unless already employed by a local health department, state government dental public health program, or the Dental Health Section of the Department of Health and Human Services, a dentist in private practice must enter into a contract of employment with one of the aforementioned agencies in order to utilize these rules.

The contract **must** create an employment relationship: full-time, part-time, or temporary. It is also expected that the parties will address other terms to ensure that treatment does not fall below the standard of care and that a “dental home” is created and available for all patients seen pursuant to the standing order. The list of potential contract terms below is not exhaustive and is intended only to provide guidance in addressing potential issues:

- Designate the approved facility in a DHHS defined dental access shortage area where the services are to be performed.
- Delineate what procedures will be allowed to be performed under the standing order.
- Indicate how many hygienists will be performing assessments so that follow-up treatment does not exceed capacity.
- Clearly indicate that the patients seen by the public health hygienist are patients of record for the supervising dentist.
- Ensure that patients of record will be seen and treated by the employed dentist for those procedures not covered by the standing order.
- Indicate the dates, times, and places of all regularly scheduled return visits throughout the year.
- Ensure that the employed dentist will adhere to all sterilization, infection control, radiation protection, and patient safety requirements.

- Provide clear direction as to how billing, collections, and other administrative functions will be handled and by whom.
- Include other terms and conditions that the parties deem necessary to meet local or individual needs.

Third: Dentists **employed** by a local health department, state government dental public health program, or the Dental Health Section of the Department of Health and Human Services (DHHS) may allow a public health hygienist “especially trained by the Dental Health Section of the Department of Health and Human Services” to perform procedures described in NCGS 90-221(a) based on a standing order rather than an in-person examination by the dentist. The public health hygienist in these situations may also supervise a Dental Assistant.

Fourth: Restrictions apply! The public health hygienist may not work independently. He or she may only assess patients pursuant to a standing order from a supervising dentist employed by an approved government agency and the assessments can only occur in public schools, nursing homes, rest homes, long-term care facilities, and rural and community clinics operated by federal, State, county or local governments in areas identified by DHHS as dental access shortage areas.

Fifth: The standing order must describe what procedures the public health hygienist can perform. No standing order may allow the public health hygienist to perform irreversible procedures or exceed delegable functions as defined in NCGS 90-221(a), 21 NCAC 16G .0101 and 21 NCAC 16H .0203.