

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please correct the date of publication on the Submission for Permanent Rule forms.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0104

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

Please insert page numbers, as this Rule spans more than one page. [See Rule 26 NCAC 02C .0108(1)(h)]

Please restart the line numbers at 1 for each page. [See Rule 26 NCAC 02C .0108(1)(f)]

I recommend changing the "under" on line 4 to "in" or "set forth in"

In Item (5), line 21, "out-of-state" should be hyphenated.

On line 26, replace "which" with "that"

In Item (8), line 28, please hyphenate "face-to-face"

In (9), the original language in the Rule, "courts" did not have a comma after it. Please simply remove the struck through comma on line 31.

Replace "which" for Items (12)(a) and (b) with "that"

Change the commas in (12)(a)(i) through (iv) to semicolons.

In Item (15), replace "one" with "an individual" Also, who will designate the individual as a temporary guard? The employing agency?

Please move "Agency Head" so that the terms within the rule are in alphabetical order.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amanda J. Reeder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0115

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Form, please indicate this is an adoption.

Insert a comma on line 5 between "licensees" and "registrants."

I think "proceedings" on line 5 should be singular, especially since it is singular in the next sentence.

Further on line 5, delete "which are."

Change the "which" on line 6 to "that."

I recommend replacing "them" with "him or her" on line 6. If you make this change, change "they hold" on line 7 to "he or she holds."

Thus, the sentence would read (in part):

All licensees, registrants and trainers shall report to the Board any administrative proceeding commenced against him or her that involves any potential revocation or suspension of, or other disciplinary action against..."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amanda J. Reeder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0203

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

In Paragraph (a), where would an applicant get the renewal form? Is it available online or sent to the applicant by the Board? Please note the same question for the "Application for Reinstatement of an Expired License" in Paragraph (b)(1).

On line 4, it seems that the sentence should read "... shall submit an original and one copy of the renewal form."

On line 5, who is the "administrator"? Is this the Director, which is the individual that is required to be notified of the intent to renew per G.S. 74C-9(f)? If so, would your public know that is who it means, since I don't see the term defined in the Rules or statute?

In (a)(2), if the criminal record check is from a third party provider, is there a timeframe for the length of the check? If it's from the clerk of superior court, it must be for 24 months. What about private providers? Please note the same question for (b)(4).

My understanding of (b) is that if a licensee allows the license to expire for over three years, then the individual must go through the application process as a new applicant. Is that correct?

In (b)(7), how does the applicant know how much the criminal record check will cost? Is this set in Rule or statute elsewhere?

In (c), "members" is plural, but "license is in good standing and to whom" is singular. I'd rewrite the sentence to state,

A member of the armed services whose license is in good standing... to file a tax return is granted/ shall receive that same extension...

In either case, use either singular or plural tense exclusively within the sentence.

The last "to" on line 33 seems unnecessary to me.

Amanda J. Reeder
Commission Counsel

I believe you should include 74C-8.1 in your History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0301

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

The existing language in (a) and (b) regarding "establishing to the Board's satisfaction" – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

To clarify, an applicant who meets the other requirements in statute and 12 NCAC 07D .0200 is no longer allowed to use three years' experience in the military as experience? Is it possible an applicant would not have received the military occupational specialty and served three years as a manager, supervisor or administrator while in the military?

On line 12, please re-insert the missing period after "~~functions.~~"

The Rule states in (a) that the applicant is required to meet the requirements in 12 NCAC 07D .0200. That Section of Rules includes several requirements, such as a criminal background check and credit check [12 NCAC 07D .0201(a)(6)], be submitted with the application. If those will be used to determine if an applicant has "committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed", set forth in G.S. 93B-15.1, then I believe this fits within the confines of the statute. If not, then I don't see that the Board has the authority to request this.

In (a), please confirm you mean to state that an applicant must meet (a)(1) OR (a)(2) OR (a)(3), which is how the Rule is currently written.

In (a)(3), remove the apostrophe in "year's" on line 13.

Throughout the Rule, I would prefer you rewrite the language regarding years' experience as "years of experience".

The new language in (b) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for a security guard and patrol license that is the spouse of an active duty member of the US Armed Forces shall establish to the Board's satisfaction:

In (b), replace the comma at the end of line 18 with a semicolon.

At the beginning of (b)(2), include some introductory language, such as "the spouse has"

On line 21, please reinsert The at the beginning of the sentence, so it reads, "The Board..."

In the new Paragraph (c), do you not intend for the educational credit to apply to military spouses, as well?

Also in (c), please note my question from earlier rules regarding the identity of the Administrator.

Further, in (c), I take it that any major will suffice for the degrees?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0302

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

The existing language in (a) and new language in (b) regarding "establishing to the Board's satisfaction" – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

On line 4, properly cite to the Subchapter as 07D .0200. Please recall that to replace this erroneous citation in the original language, the entire citation must be struck through and replaced.

Throughout the Rule, I would prefer you rewrite the language regarding years' experience as "years of experience".

To clarify, an applicant who meets the other requirements in statute and 12 NCAC 07D .0200 is no longer allowed to use three years of experience in the military as experience? Is it possible an applicant would not have received the military occupational specialty and served three years as a manager, supervisor or administrator while in the military?

The Rule states in (a) that the applicant is required to meet the requirements in 12 NCAC 07D .0200. That Section of Rules includes several requirements, such as a criminal background check and credit check [12 NCAC 07D .0201(a)(6)], be submitted with the application. If those will be used to determine if an applicant has "committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed", then I believe this fits within the confines of the statute. If not, then I don't see that the Board has the authority to request this.

On line 11, please underline the entire word "establish"

In (a), please confirm you mean to state that an applicant must meet (a)(1) OR (a)(2) OR (a)(3), which is how the Rule is currently written.

The new language in (b) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for a guard dog service license that is the spouse of an active duty member of the US Armed Forces shall establish to the Board's satisfaction:

In (b), replace the comma at the end of line 16 with a semicolon.

At the beginning of (b)(2), include some introductory language, such as "the spouse has"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0401

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

The existing language in (a) and proposed in language in (b) regarding "establishing to the Board's satisfaction" – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

In (a)(2), line 13, I do not believe that G.S. 74C-3(a)(8) "defines" investigations. I'd replace that verb with "as set forth in". Please note the same recommendation for (a)(3), line 18, and (b)(2), line 24.

On line 16, change "two years verifiable experience" to "two years of verifiable experience." This maintains consistency with (a)(1) and (2).

To clarify, an applicant who meets the other requirements in statute and 12 NCAC 07D .0200 is no longer allowed to use three years of experience in the military as experience? Is it possible an applicant would not have received the military occupational specialty and served three years as a manager, supervisor or administrator while in the military?

The Rule states in (a) that the applicant is required to meet the requirements in 12 NCAC 07D .0200. That Section of Rules includes several requirements, such as a criminal background check and credit check [12 NCAC 07D .0201(a)(6)], be submitted with the application. If those will be used to determine if an applicant has "committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed", then I believe this fits within the confines of the statute. If not, then I don't see that the Board has the authority to request this.

In (a), please confirm you mean to state that an applicant must meet (a)(1) OR (a)(2) OR (a)(3), which is how the Rule is currently written.

The new language in (b) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for a private investigator license that is the spouse of an active duty member of the US Armed Forces shall establish to the Board's satisfaction:

In (b), replace the comma at the end of line 22 with a semicolon.

Begin (b)(2) with introductory language, such as "the spouse has"

In the new Paragraph (c), do you not intend to award educational credits to military spouse applicants?

Also, I assume that the major does not matter, just the degree?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0501

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

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In reviewing these rules, the staff determined that the following technical changes need to be made:

This office does not have the correct electronic version of this rule. Please submit it to oah.rules@oah.nc.gov immediately.

Please confirm that this is the version of the Rule you wanted to submit for review by the RRC for inclusion in the Code. It appears that you inadvertently submitted the version submitted to the Commission last month for certification pursuant to G.S. 150B-19.1, as it has changes to Paragraph (c) that were not published and the proposed effective date is December 1, 2013. [Please note, any changes made to a Rule after publication must be highlighted per Rule 26 NCAC 02C .0405(b)(2).]

Please change the introductory sentence to show this is an amendment, not an adoption.

In (a)(2), please correctly remove the “;and” on line 11 by striking through the word immediately preceding. Thus, ~~Association; and Association~~

Also, please insert a comma after “Polygraph Association” on line 11.

Regarding the language in (a)(4) and (b)(2), “establishing to the Board’s satisfaction” – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

In (a)(3), please confirm that an applicant must:

- 1) Have one year of experience; or*
- 2) Successfully complete a 6 month training as a trainee and administer 50 or more polygraph exams.*

Or is the person with one year experience expected to have administered 50 or more exams as well?

On line 16, change “two years verifiable experience” to “two years of verifiable experience.” This maintains consistency with (a)(1) and (2).

The Rule states in (a) that the applicant is required to meet the requirements in 12 NCAC 07D .0200. That Section of Rules includes several requirements, such as a criminal background check and credit check [12 NCAC 07D .0201(a)(6)], be submitted with the application. If those will be used to determine if an applicant has “committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed”, then I believe this fits within the confines of the statute. If not, then I don’t see that the Board has the authority to request this.

In (a), please confirm you mean to state that an applicant must meet (a)(1) AND (a)(2) AND (a)(3) OR only b(a)(4), which is how the Rule is currently written.

The new language in (b) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for a polygraph license that is the spouse of an active duty member of the US Armed Forces shall establish to the Board’s satisfaction:

In (b), replace the comma at the end of line 20 with a semicolon.

Begin (b)(2) with language such as, “the applicant has”

In (c), eliminate the space between (a) and (1) or (2) on lines 23 and 25. Further, you need to properly add the designation by striking the original (a) and inserting the new citation. Thus, ~~(a)(a)(1)~~

The language in (d) is unclear. Are you saying that operators who are licensed in another state may conduct three examinations in NC if they are to evaluate that examiner in the performance test required by (a)(1)? This sentence should be rewritten to clarify the intent of the Paragraph. Also, please note my earlier questions regarding the administrator. In addition, I believe this could be broken up into at least two sentences.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0601

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

I realize that the meaning of P.S.E. is in the name of the Section, but I would like for you to insert something after the full name on line 8 to indicate this is the acronym. You could insert something akin to "applicants for a Psychological Stress Evaluator (P.S.E.) license shall..."

On lines 10 and 16, insert "of" so the language reads, "two years of verifiable experience"

Regarding the language in (a)(2) and (b) "establishing to the Board's satisfaction" – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

The Rule states in (a) that the applicant is required to meet the requirements in 12 NCAC 07D .0200. That Section of Rules includes several requirements, such as a criminal background check and credit check [12 NCAC 07D .0201(a)(6)], be submitted with the application. If those will be used to determine if an applicant has "committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed", then I believe this fits within the confines of the statute. If not, then I don't see that the Board has the authority to request this.

The new language in (b) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for a P.S.E. license that is the spouse of an active duty member of the US Armed Forces shall establish to the Board's satisfaction:

In (b), replace the comma at the end of line 15 with a semicolon.

Begin (b)(2) with language such as, "the applicant shall show the Board"

In Paragraph (c), line 18, I recommend replacing “must” with “shall”.

On line 18, what do you mean by “actual”? (In person, with a curriculum?)

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0807

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

Please insert page numbers, as this Rule spans more than one page. [See Rule 26 NCAC 02C .0108(1)(h)]

Please restart the line numbers at 1 for each page. [See Rule 26 NCAC 02C .0108(1)(f)]

This is a very cluttered rule. I would split up Paragraph (a) into two Paragraphs, or at least into a Subparagraph. The first sentence states that all applicants will complete the training in Rule .0707. However, the rest of the paragraph focuses exclusively on what Private Investigator licensees do or do not have to do to get the permit. The rule would be much easier to read if it had Paragraphs governing application, renewal and shotgun training.

Please simplify the language that applies to Private Investigators in Paragraph (a). I do not see that you need to state in one sentence that 2 classes apply to this group, and then have a second sentence to state that the rest do not. You could simply state, "Private Investigator Licensees applying for an armed security guard firearm registration permit (or just "this permit") shall first complete a four hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Subchapter, and all additional training requirements set forth in that Rule."

Who conducts the basic training course in (b)? Is this what is contemplated in Paragraph (d)?

Delete "as referenced above" online 24.

I recommend rearranging the words on line 25 to state, "given three additional attempts"

On line 26, what is the "Basic Training Course for Armed Security Guards"? Is this what is in (b), line 13? If so, why is it capitalized in one place but not the other?

Amanda J. Reeder
Commission Counsel

In (d), line 28, please correct the citation to 12 NCAC Subchapter 07D

Also in (d), line 29, what you do mean by “successfully complete” the training? Is the training in (b) successfully completed after the 20 hours of classroom instruction, or does it require also passing the firearms qualification in Paragraph (c)?

On line 32, should the sentence read, “their duty ammunition or the ballistic equivalent ammunition, including lead-free ammunition...”?

On line 34, is the “instructor” the trainer in (d)? If not, who is it? Does your regulated public know who this is?

On line 41, please underline “(h)”, as that is new language.

On lines 45 and 47, who is the licensee in this instance? The employing agency as contemplated by G.S. 74C-13? I am confused that it’s not the guard who has a duty to report this to the Board. Is the guard not governed by the Board?

At the beginning of line 46, I believe you meant to state “carrying the same make and model weapon.”

I believe on lines 59 and 63, you mean to replace references to Paragraph (h) to Paragraph (i).

Similarly, I believe you intended to replace the reference to Paragraph (i) on line 63 to Paragraph (j).

In Paragraph (m), is “qualify annually both day and night” mean in both day and night shooting? I take it your regulated public knows what this means?

In Paragraph (m), line 69, I’d remove “Upon failure to qualify” altogether. If you are uncomfortable doing so, at least insert a comma after “qualify”. Further, replace “they” throughout the Paragraph with “he or she”. Remove “on” on line 71. Do you mean to say the instructor may wait until the next day, or must do so by the next business day? If so, I’d replace “on” with “by.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0901

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

Throughout the Rule, please change citations to "Rule 07D XXXX of this Subchapter"

Insert "of" after "year" on lines 8,9, 26 and 33

The Rule states in (a)(1) that the applicant is required to meet the requirements in 12 NCAC 07D .0703. If those requirements will be used to determine if an applicant has "committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed", then I believe this fits within the confines of the statute. If not, then I don't see that the Board has the authority to request this.

In (a)(2), did you intend to keep the reference to U.S. military experience?

In (a)(6), replace "a" with "the" on line 18. In addition, delete "established by" and replace it with "set forth in". Thus, the sentence will read

Successfully complete the requirements of ~~a~~the Unarmed Trainer Certificate established by 12 NCAC 07D .0909 set forth in Rule .0909 of this Subchapter.

In (b)(2) insert "of this Rule" after the citation to be consistent with (c).

On line 23, the "(1)" is new language and should be underlined.

Regarding the language in (c)(2) "establishing to the Board's satisfaction" – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

Replace the comma on line 25 after "Commission" with a semicolon.

On line 28, what do you mean by "subsection"? Do you mean Subparagraph?

Amanda J. Reeder
Commission Counsel

The language on line 30 in Paragraph (d) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for a firearms trainer certificate that is the spouse of an active duty member of the US Armed Forces shall establish to the Board's satisfaction:

In (d)(1), replace the comma at the end of line 32 with a semicolon.

In (d)(2), begin with language, "the applicant has"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Private Protective Services Board

RULE CITATION: 12 NCAC 07D .0909

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In reviewing these rules, the staff determined that the following technical changes need to be made:

Please change the introductory sentence to show this is an amendment, not an adoption.

Throughout the Rule, please change citations to "Rule 07D XXXX of this Subchapter"

Insert "of" after "year" on lines 6,7, 25 and 32

The Rule states in (a)(1) that the applicant is required to meet the requirements in 12 NCAC 07D .0703. If those requirements will be used to determine if an applicant has "committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice the occupation in the State at the time the act was committed", then I believe this fits within the confines of the statute. If not, then I don't see that the Board has the authority to request this.

In (a)(2), did you intend to keep the reference to U.S. military experience?

Replace the period at the end of (a)(3)(G) with a semicolon. On that same line (17), replace the semicolon between "performance" and "45" with a hyphen to be consistent with the rest of the Subparagraph.

Please insert a verb at the beginning of (a)(4). (i.e., "Receive a favorable recommendation")

I'd recommend simplifying the language in (a)(5). Why not just state, "submit the application required by Rule .0910 of this Section."

Paragraph (b) has been reformatted from the original version of this Rule, and you must show those changes. The "Board:" on line 22 is new, for instance. Show all changes being made to the original language and punctuation (or the insertion of new language or punctuation).

Insert a semicolon after Commission in (b)(1), line 24.

Amanda J. Reeder
Commission Counsel

(b)(2) as written is not grammatically correct. Combined with (b), it reads:

*An applicant may submit to the Board:
establish to the Board's satisfaction....*

I believe you need to insert language, such as "documentation to"

Replace the comma with a semicolon at the end of lines 26 and 31.

Regarding the language in (b)(2) and (c) "establishing to the Board's satisfaction" – I assume your regulated public knows the standard used by the Board in determining how the individuals meet this burden?

The language on line 29 in Paragraph (c) is an incomplete sentence. I think you mean to say,

In addition to the requirements of 12 NCAC 7D .0200, an applicant for an unarmed guard trainer certificate that is the spouse of an active duty member of the US Armed Forces shall establish to the Board's satisfaction:

Properly indent the text in (c)(1) on line 31 and (c)(2), line 33.

(c)(2) should begin "the applicant has..."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Rule 26 NCAC 02C .0404(b) requires that all introductory statements for Rules published in the Register (as these were) must include the volume, issue and page or pages of the notice publication. Please amend all introductory statements to include this information.

There are no effective dates indicated for any of the Rules. Please amend the Rules to include the proposed effective date.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amanda J. Reeder
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0101

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please make this Rule into two paragraphs. The original language will be (a), and the new language will be (b).

On line 4, please insert either "the" or "a" before "Board approved ..." using whichever is appropriate.

Further, I'd re-word this sentence to state, "are required to pass the Board approved, as set forth in these Rules, written and clinical..."

On lines 6 and 7, change "Rules 16B .1001 - .1002." to "Rules .1001 and .1002 of this Subchapter."

What is the purpose of invoking G.S. 90-21.107 in this Rule? The relevant part of G.S. 90-21.102 defines a health care provider as any person who "is licensed to practice dentistry under Article 2 of this Chapter." [G.S. 90-21.102(3)(g)]. G.S. 90-21.107 states that additional licensure is not required unless the individual meets certain criteria (revoked license, not in good standing, etc.) It appears to me that the Board cannot require a licensed dentist to take another examination anyway, so why is in the Rule?

Further, G.S. 90-21.105 states that if a dentist is not licensed, authorized, in good standing, or the subject of an investigation or pending disciplinary action, then the individual is not permitted to engage in the provision of healthcare under that act. That means that additional licensure requirements would only apply to a dentist who: 1) has been subjected to public disciplinary action in any state where licensed; 2) is pending disciplinary proceeding in any state where licensed; 3) had his or her license suspended or revoked due to disciplinary proceedings in any state where licensed; or 4) renders services outside the scope of practice authorized by the license. Would the Board require an NC licensed dentist who meets the above-listed criteria to take the examination and then issue an additional license to the dentist to qualify to provide services under the Voluntary Care Health Services Act?

§ 90-21.105. Department and licensure boards to review licensure status of volunteers.

The Department shall forward the information received from a sponsoring organization under G.S. 90-21.104(d)(1) to the appropriate licensure board within seven days after receipt. Upon receipt of any information or notice from a licensure board that a health care provider on the list submitted by the sponsoring organization pursuant to G.S. 90-21.104(d)(1) is not licensed, authorized, or in good standing, or is the subject of an investigation or pending disciplinary action, the Department shall immediately notify the sponsoring organization that the health care provider is not permitted to engage in the voluntary provision of health care services on behalf of the sponsoring organization. (2012-155, s. 1.)

§ 90-21.107. Additional licensure not required for certain volunteers.

- (a) A health care provider who engages in the voluntary provision of health care services in association with a sponsoring organization for no more than seven days during any calendar year shall not be required to obtain additional licensure or authorization in connection therewith if the health care provider meets any of the following criteria:
 - (1) The health care provider is duly licensed or authorized under the laws of this State to practice in the area in which the health care provider is providing voluntary health care services and is in good standing with the applicable licensing board.
 - (2) The health care provider lawfully practices in another state or district in the area in which the health care provider is providing voluntary health care services and is in good standing with the applicable licensing board.

- (b) This exemption from additional licensure or authorization requirements does not apply if any of the following circumstances exist:
 - (1) The health care provider has been subjected to public disciplinary action or is the subject of a pending disciplinary proceeding in any state in which the health care provider is or ever has been licensed.
 - (2) The health care provider's license has been suspended or revoked pursuant to disciplinary proceedings in any state in which the health care provider is or ever has been licensed.
 - (3) The health care provider renders services outside the scope of practice authorized by the health care provider's license or authorization. (2012-155, s. 1.)

Why is G.S. 90-28 in the History Note? Is this really part of the Board's bylaws or regulations for the purpose of facilitating the transaction of business by the Board?

Why is G.S. 93B-15.1 in the History Note? It doesn't seem to be part of this Rule and I believe it should be removed.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .0317

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Re-write the Rule so it is not in passive voice by removing the "has" before the verbs. For example, in new (a), "Any applicant who passed the written examination but failed the clinical examination..."

Does this mean there are no limits on the number of times an applicant can take (and fail) the clinical portion of the examination?

In the Submission for Permanent Rule form, the Board states the amendment is necessary to remove the remediation requirement because the Board no longer gives the licensing examination and the Board does not have a practical way to determine when or how many times an applicant will fail an exam given by other providers.

Assuming this is restricted to the Board no longer administering the clinical portion of the examination, doesn't this affect the language in the new Paragraph (a)/ former (b)? That language states that if the individual fails the clinical examination, the applicant must re-take the written exam unless the applicant passes the clinical examination in one year. On its face, it seems inconsistent to state that the Board cannot keep up with passing or failing of the clinical exam to require remediation in Paragraph (a), but that it can keep up with failure of that portion as it relates to the written exam in Paragraph (b). Please explain how this process is intended to work.

Further, as the Rule does not require the applicant to submit the successful passing of the clinical examination to the Board, how would the Board be able to keep up with this? Is this what is contemplated by Rule 16B .0301(e), which states:

(e) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule .0303(c) of this Subchapter, if applicable.

For your reference, Rule 16B .0303(c) states:

(c) Clinical testing agencies must 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.

Amanda J. Reeder
Commission Counsel

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1001

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Remove the "and" at the end of lines 5, 6, 11 and 13. When striking the "and" at the end of (a)(2) on line 6, you need to properly insert a semicolon after the rule citation.

Subparagraphs (a)(3)(A) through (C) are missing the opening parenthesis on lines 10, 12 and 14. Further, they need to be indented properly per Rule 26 NCAC 02C .0108(6).

In (a)(1), where does an applicant get the Board application? Is this in another Rule, or is the individual supposed to get it from a website or the Board's office? The way to get it needs to be in the Rule. For example, if the application is found online, you can just state, "form provided by the Board at www.ncdentalboard.org" or something along those lines.

On line 6, replace "Section" with "Rule"

Remove "has" from lines 10, 12 and 14. Begin the sentences in active voice, so it states, "Completed..."

In (a)(3)(B), where can an individual find the testing or training and experience found for licensure? Is it as set forth in the Rules or statutes?

In (a)(3)(C), is the Board's requirement of 1500 hours per year intended to define, "actively practice" as set forth in G.S. 93B-15.1(a)(2)? Further, will your regulated public understand what you mean by "actively practice"? Some of your other licensure rules state it means, "clinical care directly to patients, not including post graduate training, residency, or an internship." (Rule 21 NCAC 16B .0501) Is this what you intend here? If so, since you've defined "actively practice" elsewhere, I think it would be appropriate to include that definition here.

Is (a)(4) intended to address 93B-15.1(a)(3), which states that the individual cannot have committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice dentistry in NC at the time the act was committed? Are the actions listed in (a)(4) the only reasons you would have taken adverse action on the licenses? G.S. 90-41, seems to state this is not the case. If there are other grounds, then they need to be spelled out in the Rule. If these are not the

Amanda J. Reeder
Commission Counsel

grounds that would be used to satisfy (a)(4), then I do not see that you have the authority to request this information.

In Paragraph (c), what are the "other form(s) required to perform a criminal history check", and how would the applicant obtain them?

Why is G.S. 90-28 in the History Note? Please note, G.S. 93B-15.1(g) expressly authorizes occupational licensing boards to adopt rules to implement the law, so I do not see that you need the additional authority.

Further, is G.S. 90-36 in the History Note because most of the MOS for dentistry require licensure in a US state or territory?

G.S. 90-30(b) is the statute that gives the Board authority to conduct criminal background checks on "a person who has applied for a license through the Board." Since certain criminal convictions can result in an applicant not being eligible for licensure, I think the statute should be in the History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16B .1002

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Remove the "and" at the end of lines 7, 8 and 13.

Subparagraphs (a)(3)(A) and (B) are missing the opening parenthesis on lines 11 and 14. Further, they need to be indented properly per Rule 26 NCAC 02C .0108(6).

On line 8, replace "Section" with "Rule"

In (a)(1), where does an applicant get the Board application? Is this in Rule, or is the individual supposed to get it from a website or the Board's office? The way to get it needs to be in the Rule. For example, if the application is found online, you can just state, "form provided by the Board at www.ncdentalboard.org" or something along those lines.

In (a)(3)(A), I think you need to state something along the lines of, "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." or whatever source is appropriate.

Please delete "has" from line 14.

In (a)(3)(B), is the Board's requirement of 1500 hours per year intended to specify the Board's method for demonstrating competency as set forth in G.S. 93B-15.1(b)(2)? Further, will your regulated public understand what you mean by "actively practice"? Some of your other licensure rules state it means, "clinical care directly to patients, not including post graduate training, residency, or an internship." (Rule 21 NCAC 16B .0501) Is this what you intend here? If so, since you've defined "actively practice" elsewhere, I think it would be appropriate to include that definition here.

Is (a)(4) intended to address 93B-15.1(b)(3) and (b)(4)? Are the actions listed in (a)(4) the only reasons you would have taken adverse action on the licenses? G.S. 90-3 and 90-41 seem to show that this is not the case. If there are other grounds, then they need to be referenced or spelled out in the Rule. If these are not the grounds that would be used to satisfy (a)(4), then I do not see that you have the authority to request this information.

Amanda J. Reeder
Commission Counsel

In Paragraph (c), what are the “other form(s) required to perform a criminal history check”, and how would the applicant obtain them?

Why is G.S. 90-28 in the History Note? Please note, G.S. 93B-15.1(g) expressly authorizes occupational licensing boards to adopt rules to implement the law, so I do not see that you need the additional authority.

G.S. 90-30(b) is the statute that gives the Board authority to conduct criminal background checks on “a person who has applied for a license through the Board.” Since certain criminal convictions can result in an applicant not being eligible for licensure, I think the statute should be in the History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0101

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

On the Submission for Permanent Rule form, the agency checked that this rule does not establish or increase a fee, but includes an authority for not including the consultation. Please re-submit the form with the correct information.

Please make this Rule into two paragraphs. The original language will be (a), and the new language will be (b).

Is the language on line 4, "Before beginning the practice of dental hygiene in North Carolina" really necessary? It seems you could state something along the lines of "All dental hygienists must be licensed in order to practice dental hygiene." and replace the entire first sentence.

On lines 7 and 8, I would change "Rule 16G .0107 or Rule .0108" to "Rules 16G .0107 or .0108."

What is the purpose of invoking G.S. 90-21.107 in this Rule? The relevant part of G.S. 90-21.102 defines a health care provider as any person who "is licensed to practice as a dental hygienist under Article 16 of this Chapter. [G.S. 90-21.102(3)(k)]. G.S. 90-21.107 states that additional licensure is not required unless the individual meets certain criteria (revoked license, not in good standing, etc.) It appears to me that the Board cannot require a licensed hygienist to take another examination anyway, so why is in the Rule?

Further, G.S. 90-21.105 states that if a dental hygienist is not licensed, authorized, in good standing, or the subject of an investigation or pending disciplinary action, then the individual is not permitted to engage in the provision of healthcare under that act. That means that additional licensure requirements would only apply to a hygienist who: 1) has been subjected to public disciplinary action in any state where licensed; 2) is pending disciplinary proceeding in any state where licensed; 3) had his or her license suspended or revoked due to disciplinary proceedings in any state where licensed; or 4) renders services outside the scope of practice authorized by the license. Would the Board require an NC licensed dental hygienist who meets the 4 criteria listed above to take the examination and then issue an additional license to the dentist to qualify to provide services under the Voluntary Care Health Services Act?

Amanda J. Reeder
Commission Counsel

Why is G.S. 90-28 in the History Note? Is this really part of the Board's bylaws or regulations for the purpose of facilitating the transaction of business by the Board?

Why is G.S. 93B-15.1 in the History Note? It doesn't seem to be part of this Rule and I believe it should be removed.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16C .0301

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Paragraph (a), what happens with the application if it is deemed incomplete? Is it returned to the applicant (which is what I suspect, based upon your language in other rules)? If so, I suggest you state this.

In (a), where can the applicant find the forms furnished by the Board? Are they online or sent to the applicant?

Also in (a), when is an applicant required to notify the Board of the change of address? While the application is pending? Is there a timeframe for the individual to do so after changing the address? Also, since you are repealing the rule with the Board's contact information, do you have any concerns that individuals won't know where to submit things, or do you feel they will know through the Board's website?

The final sentence in (a) is awkwardly worded. Are you trying to say that applicants shall ensure the Board is sent the proof of graduation required in G.S. 90-224(a)? If so, I suggest you say that more clearly. Perhaps you could say:

Applicants shall contact the schools in G.S. 90-224(a) and ensure sealed proof of graduation is sent to the Board office.

Are you requiring the proof of high school graduation or equivalency AND the graduation from the dental hygienist program from the granting institutions, or just the graduation from the program?

Re-word (b) to eliminate the second sentence, so it states, "The nonrefundable application fee shall accompany the application." You may also wish to reference the fee rule in the language to give a complete picture of the amount owed.

In (c), is the applicant required to have the secretary of that state's board submit it to you, or get it from the secretary and deliver it to the Board himself? Further, do all boards have secretaries? (Instead of say, directors or chairs?)

In (d), what are the “other such form(s)” required for a criminal record check? How will an applicant know what they are? How will the applicant obtain them? Is this contemplating the language of G.S. 90-224(c), which states:

(c) The Department of Justice 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 Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, 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.

In (e), strike the comma after “office” on line 14. Strike the “as” at the end of line 14, as well.

On line 15, the correct way to remove the citation within the rule is to strike the entire citation and then insert the language you want. Make this change here. Also, the correct citation is “Rule .0303 of this Subchapter.”

Alternatively, why not rewrite the first sentence in (e), along the lines of

All applicants shall ensure the examination scores required by Rule .0303 of this Subchapter are submitted to the Board office.

Please note my concern regarding the use of 90-21.107 as articulated for other rules. It also seems that statute would not be applicable to anyone seeking licensure under Paragraph (c) of this Rule, as the Act states that applicant has to be licensed in this state to seek the designation. Is it your intent to only ensure that Paragraph (c) is not subject to 90-21.107?

In addition, on line 18, I would state, “Rules 16G .0107 or .0108.”

Why is G.S. 93B-15.1 in this History Note?

As Paragraph (c) speaks to applicants being credentialed for licensure in other states, I believe you need to insert a reference to G.S. 90-224.1 in your History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16G .0107

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Out of curiosity, why is the rule proposed for Subchapter 16G, (which appears to be general for hygienists) rather than 16C, which is the licensure of hygienists?

In Paragraph (a), line 5, change "his/her" to "his or her"

Remove the "and" at the end of lines 7, 8, 12 and 14. Make sure you insert a semicolon after (\$265) on line 8.

Insert the opening parenthesis marks for lines 11, 13 and 15. Also, properly indent this text per Rule 26 NCAC 02C .0108(6).

Remove "has" on lines 11, 13 and 15.

In (a)(3)(B), will the testing or training be "as set forth in these Rules" or statues or both? In other words, how would the applicant know what is the baseline for qualification so they can meet or exceed it?

In (a)(3)(C), is the Board's requirement of 1500 hours per year intended to specify the Board's method for demonstrating competency as set forth in G.S. 93B-15.1(b)(2)? Similar to the questions for the other 93B-15.1 rules, do you believe your regulated public knows what "actively practice" means, or do you have a definition you'd like to insert?

Is (a)(4) intended to address 93B-15.1(a)(3)? Are the actions listed in (a)(4) the only reasons you would have taken adverse action on the licenses? G.S. 90-229 seems to show that this is not the case. If there are other grounds, then they need to be referenced or spelled out in the Rule. If these are not the grounds that would be used to satisfy (a)(4), then I do not see that you have the authority to request this information.

In (c), what are the "other such form(s)" required for a criminal record check? How will an applicant know what they are? How will the applicant obtain them?

Amanda J. Reeder
Commission Counsel

The History Note cites 90-28 and 90-36, and neither statute is applicable to dental hygienists. (Article 2 of Chapter 90 is "Dentistry") Please remove them. If the Board wishes to use a law granting general rulemaking authority for dental hygienists, I recommend using G.S. 90-223.

As G.S. 90-232 authorizes the application fee, please insert it into the History Note. Also, while it is completely within your discretion to charge a lesser fee, and I have no issues with the language, is there a reason that dental applicants under G.S. 93B-15.1 will pay the regular price, but hygienists get a \$10 discount for licensure? (Rule 16M .0102 states that ordinarily, the fee is \$275.)

G.S. 90-224(c) is the statute that gives the Board authority to conduct criminal background checks on "a person who has applied for a license through the Board." Since certain criminal convictions can result in an applicant not being eligible for licensure, I think the statute should be in the History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16G .0108

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Out of curiosity, why is the rule proposed for Subchapter 16G, (which appears to be general for hygienists) rather than 16C, which is the licensure of hygienists?

Remove the "and" at the end of lines 7, 8, and 12.

Insert the opening parenthesis marks for lines 10 and 13. Also, properly indent this text per Rule 26 NCAC 02C .0108(6).

In (a)(3)(A), will the testing or training be "as set forth in these Rules" or statues or both? In other words, how would the applicant know what is the baseline for qualification so they can meet or exceed it?

Remove the "has" on line 13.

In (a)(3)(B), is the Board's requirement of 1500 hours per year intended to specify the Board's method for demonstrating competency as set forth in G.S. 93B-15.1(b)(2)?

Is (a)(4) intended to address 93B-15.1(b)(3) and (b)(4)? Are the actions listed in (a)(4) the only reasons you would have taken adverse action on the licenses? G.S. 90-229 seems to show that this is not the case. If there are other grounds, then they need to be referenced or spelled out in the Rule. If these are not the grounds that would be used to satisfy (a)(4), then I do not see that you have the authority to request this information.

In (c), what are the "other such form(s)" required for a criminal record check? How will an applicant know what they are? How will the applicant obtain them?

The History Note cites 90-28 and 90-36, and neither statute is applicable to dental hygienists. (Article 2 of Chapter 90 is "Dentistry") Please remove them. If the Board wishes to use a law granting general rulemaking authority for dental hygienists, I recommend using G.S. 90-223.

As G.S. 90-232 authorizes the application fee, please insert it into the History Note. Also, while it is completely within your discretion to charge a lesser fee, and I have no issues with the language, is there a reason that dental applicants under G.S. 93B-15.1

Amanda J. Reeder
Commission Counsel

will pay the regular price, but hygienists get a \$10 discount for licensure? (Rule 16M .0102 states that ordinarily, the fee is \$275.)

G.S. 90-224(c) is the statute that gives the Board authority to conduct criminal background checks on "a person who has applied for a license through the Board." Since certain criminal convictions can result in an applicant not being eligible for licensure, I think the statute should be in the History Note.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Board of Dental Examiners

RULE CITATION: 21 NCAC 16M .0101

DEADLINE FOR RECEIPT: **Friday, July 12, 2013**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please explain the difference between (a)(12), the "Renewal of limited volunteer dental license" and (a)(15), "Each limited volunteer dental licensed annual renewal."

The language and the amount of the fee in Subparagraph (a)(15) comes directly from G.S. 90-39(15). What is the Board's authority to charge the fee in (a)(12)?

Please note, I am aware that the Commission has found in the past that the Board can break down statutory fees into separate categories. Therefore, the fees in (a)(1) and (a)(13), allocated as the application and Board conducted examination processing fees are each considered part of the statutory fee in G.S. 90-39(1), and are the total application fee. Thus, the Board collects a total of \$1200 in two different fees that are within the statutory confines. Is (a)(12) part of some other statutory fee?

What is the Board's rationale for breaking any fees into separate parts?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Amanda J. Reeder
Commission Counsel