

Memo to: Joint Legislative Commission on Governmental Operations

From: Doug Brocker and Whitney Waldenberg, Counsel and Rule Making Coordinators,
North Carolina State Board of Dental Examiners

Date: January 25, 2018

Re: Request for Consultation

Please accept this Memorandum and attachments as the North Carolina State Board of Dental Examiners' ("Dental Board") request pursuant to N.C. Gen. Stat. § 12-3.1 for a consultation regarding proposed amendments to rules that would add or increase certain fees charged to dentists by the Dental Board for anesthesia and sedation permits and renewals.

Proposed Amendments with Clarifications but No Fee Increases

Initially, the Board proposes to amend 21 NCAC 16Q .0204(a) to clarify that a dentist seeking a general anesthesia permit must pay a \$375.00 fee when it involves both an evaluation and inspection and requires at least two inspectors. The provision also clarifies that if an on-site inspection only requires an equipment and facility check, it can be accomplished by a single evaluator and will require payment of a \$275.00 fee. The Board proposes to amend 21 NCAC 16Q .0204(b) to reduce from \$375.00 to \$275.00 the inspection fee of any additional location to administer anesthesia because it involves only an equipment and facility check done by a single evaluator.

These proposed inspection fees cover the Board's cost of the evaluation and inspection associated with this permit and additional locations for this permit. The Board does not believe it is adding or increasing any fees in the proposed amendments to 21 NCAC 16Q .0204 but is merely clarifying that a lesser inspection fee is required in certain circumstances when a single evaluator can accomplish an equipment and facility check only. Existing 21 NCAC 16Q .0201(a) requires a dentist seeking a general anesthesia permit to pay a \$375.00 fee. The Board believes the fees in the proposed amendment to 21 NCAC 16Q .0204 are already authorized by existing 21 NCAC 16Q .0201(a).

Proposed Amendments with Fee Increases

First, the Board proposes to amend 21 NCAC 16Q .0206(a) to require that a dentist seeking an itinerant (mobile) general anesthesia permit pay a \$275.00 inspection fee. This proposed fee would cover the Board's cost of the inspection associated with this permit. Under the current rule, the dentist must only pay a \$100.00 application fee. The proposed amendment would increase the total fee for seeking an itinerant (mobile) general anesthesia permit by \$275.00. The inspection fee was inadvertently left out of the regulation when adopted initially.

Second, the Board proposes to amend 21 NCAC 16Q .0304(a) to require that a dentist seeking the newly created itinerant (mobile) moderate conscious sedation permit pay a \$100.00 application fee and a \$275.00 inspection fee. These proposed fees would cover the cost of the application as well as the inspection associated with this permit. Current rule 21 NCAC 16Q .0304 does not provide for this type of permit. The proposed amendment would impose fees totaling \$375.00 for obtaining the proposed new itinerant (mobile) moderate conscious sedation permit, which was added in the regulations at the request of licensees.

Third, the Board proposes to amend 21 NCAC 16Q .0305(a) and(b). The amendment to Rule .0305(a) would reduce from a \$100 to a \$50.00 late fee when the moderate conscious sedation permit holder submits a renewal application and renewal fee after January 31 of each year, which previously was in subsection (b). The amendments to Rule .0305(b) would impose a \$100.00 annual renewal fee for permit holders seeking to renew the new itinerant (mobile) moderate conscious sedation permit, as well as a \$50.00 late fee when the new itinerant (mobile) moderate conscious sedation permit holder submits a renewal application and renewal fee after January 31 of each year. The current rule does not provide for such renewal and late fees because the itinerant permit has been added. In sum, the proposed amendments would reduce the late renewal fee for the moderate conscious sedation permit by \$50 and impose a \$100 renewal fee and a \$50 late renewal fee for the new itinerant moderate conscious sedation permit.

Fourth, the Board proposes to amend 21 NCAC 16Q .0406 to require that a dentist seeking the newly-created mobile moderate pediatric conscious sedation permit pay a \$100.00 application fee and a \$275.00 inspection fee. These proposed fees would cover the cost of the application as well as the inspection associated with this permit. Current rule 21 NCAC 16Q .0406 does not provide for this type of permit. The proposed amendment would impose fees totaling \$375.00 for obtaining the proposed new itinerant (mobile) moderate pediatric conscious sedation permit.

Last, the Board proposes to amend 21 NCAC 16Q .0407(b) to impose a \$100.00 annual renewal fee for permit holders seeking to renew the mobile moderate pediatric conscious sedation permit, as well as a \$50.00 late fee when the mobile moderate pediatric conscious sedation permit holder submits a renewal application and renewal fee after January 31 of each year. The current rule does not provide for a renewal and late fee because this is a proposed new permit. Therefore, the amendments would impose a \$100 renewal fee and a \$50 late renewal fee for the new itinerant moderate pediatric conscious sedation permit.

Statutory Authority for Fees

Pursuant to N.C. Gen. Stat. § 90-39(11), the Board may charge up to \$750.00 for office inspections for general anesthesia or sedation. Pursuant to N.C. Gen. Stat. § 90-39(12), the Dental Board may charge up to \$100.00 for each application for a general anesthesia or sedation permit.

Pursuant to N.C. Gen. Stat. § 90-39(12) the Board may charge up to \$100 for each renewal of a general anesthesia or sedation permit. Pursuant to N.C. Gen. Stat. § 90-39(2a), the Board may charge up to \$100.00 for the late renewal of any license or permit.

Reason for Requested Fee Increases

The Board requests the fee regulations to help defray the expenses incurred by the Dental Board in processing applications, renewals and late renewals and in conducting the inspections of the facilities and evaluations of applicants where anesthesia and sedation is administered. The Board incurs costs and has to utilize resources to process applications and renewals. The Board has to contract with one or more dentists who has a current anesthesia or sedation permit to conduct each evaluation or inspection.

Copies of the rules with the proposed amendments are attached. We submitted these rules to the Office of Administrative Hearings/Rules Division for publication on January 25, 2018.

Thank you for your consideration of this request.

cc: Commission Assistant
General Assembly Fiscal Research Division