

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio State Dental Board

Regulation/Package Title: 2013 – Amended Rules Chapter 12

Rule Number(s) 4715-12-01, 4715-12-02, 4715-12-03, 4715-12-04, and 4715-12-05

Date: \_\_\_\_\_

**Rule Type:**

New  
 Amended

5-Year Review  
 Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

4715-12-01 Permissible practices of a dental assistant radiographer; supervision required; certificate to be displayed.

This rule sets forth the supervision and permissible practices of a dental assistant radiographer under the supervision of an licensed employer dentist. Amendments to the rule allow for ease of compliance regarding display and maintenance of a dental assistant radiographer certificate.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIOhio@governor.ohio.gov](mailto:CSIOhio@governor.ohio.gov)

4715-12-02 Application for certificate; requirements; exceptions.

This rule sets forth the minimum education, training, and application requirements for a dental assistant to receive a certificate allowing them to take x-rays in the dental office under the supervision of the licensed employer dentist. Amendments to the rule specify that any certification examination to become a certified dental assistant seeking to obtain a certificate in dental radiography must include examination in radiography as a component.

4715-12-03 Certificate renewal.

This rule sets forth the requirements and procedures to renew a dental assistant radiographers certificate. Amendments to the rule allow for the certificate to automatically expire 90 days after the renewal deadline rather than to be automatically suspended for failure to renew and change in the procedure to renew an automatically expired certificate.

4718-12-04 Accreditation of education programs; application; fee; suspension; revocation.

This rule sets forth the minimum education and training requirements for dental assistant radiography initial training programs/courses and sets for the application and fee requirements for approval of the program/course. Amendments to the rule clarify the minimum subjects that must be included in the dental assistant radiographer initial training program/course.

4715-12-05 Continuing education requirements.

This rule sets forth the minimum continuing education requirements for renewal of the dental assistant radiographer certificate. Amendments to the rule clarify the subject areas of the required continuing education for renewal of the dental assistant radiographer certificate.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

4715.53 License qualifications.

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

The proposed amendments implement a federal requirement and are being amended to enable the state to maintain approval to administer and enforce a federal law. As part of Sec.979 of the Consumer-Patient Radiation Health and Safety Act of 1981, 42 CFR 75 mandates the promulgation of regulations for the minimum standards for the utilization of ionizing and non-ionizing radiation by dental assistant radiographers in the interest of public safety and to prevent the hazards of improper use of medical radiation.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

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This question is non-applicable since the proposed amendments do not exceed a federal requirement.

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

In the interest of public safety and to prevent the hazards of improper use of medical radiation, Congress determined the need for standards for occupational groups utilizing ionizing and non-ionizing radiation (i.e. radiographer, dental hygienist, dental assistant, nuclear medicine technologist, and radiation therapy technologist). Subsequently, ORC 4715.53 was implemented in 1995 setting forth the certification [licensure] requirements for dental assistant radiographers in Ohio.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Success will be measured by having a clear rule written in plain language, by certificate holders compliance with the rule, and minimal questions from certificate holders regarding requirements of the rule.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The Board's Law and Rules Review Committee (Committee), holds open meetings throughout the rule review year. The Committee is comprised of fourteen (14) members including representatives of the Board, the Ohio Dental Association and the Ohio Dental Hygienists' Association. Additionally, the Board sends public notices and proposed Rule Review agendas to the Board mailing list; a listing of parties interested in all Board proceedings. The Committee met with the opportunity to discuss these rules in May, August, and December 2012.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Discussion by the Committee resulted in the amendments as listed in paragraph (1) of this document which further clarify maintenance of the certificate and the requirements to obtain the initial certificate, ease the renewal process, and clarify initial and continuing education subjects.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

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Scientific data was not used to develop the rules as these rules are not data driven.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulations were considered by the agency since it was determined that the rule provides specific clarity required by 42 CFR 75 and ORC 4715.53.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

The Board did not see an application for the rule to be performance-based.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

In 1994, Am.Sub.S.B. 191 of the 120<sup>th</sup> General Assembly was introduced as part of Sec.979 of the Consumer-Patient Radiation Health and Safety Act of 1981, 42 CFR 75 which mandated the promulgation of State regulations for the minimum standards for the utilization of ionizing radiation. Original language of the bill required all individuals utilizing ionizing radiation be licensed through the Ohio Department of Health. The Ohio Dental Association aggressively lobbied to have the Ohio State Dental Board be the responsible State entity for regulating radiography in the dental practice. All other individuals performing radiologic procedures are regulated/licensed through the Ohio Department of Health. Therefore, there is no conflict with other sections of Ohio law. These rules are the sole state regulatory guidelines for dental assistant radiographers engaged in the use of ionizing radiation.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Board will continue to use its website and social media links to educate and update licensees on its rules. Board employees provide informational presentations to stakeholder organizations and groups of dental personnel in an effort to keep the dental profession apprised of current regulations. Stakeholder organizations also ensure that rules, particularly amended rules are provided to their members through communications and CE opportunities. Staff training is conducted for rule changes to ensure that regulations are applied consistently.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;

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OAC Chapter 4715-12 impacts individual certificate holders by setting forth the minimum education, examination, licensure/certification requirements, and minimal continuing education requirements for licensure/certification renewal that is specified in 42 CFR 75. Costs of education, examination, and continuing education are set by the providers and the Board has no control over these costs. The dental assistant radiographer is charged with recordkeeping of initial education and examination and continuing education documentation (four (4) years).

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

Dental assistant radiographer certificate [license] holders are not business owners and therefore, any education, examination, and/or certification [license] and renewal requirements do not have an adverse effect on small businesses. However, if a certificate [license] holder does not renew the certificate [license] or is not in compliance with the continuing education law and rules and it comes to the attention of the Board, the certificate holder may, if the continuing education violation is not corrected, be subject to discipline by the Board. Such discipline may negatively impact the employer dentist [small business owner] in loss of staff due to suspension of the dental assistant radiographers certificate [license].

**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.*

The cost to the dental assistant radiographer certificate holder [licensee] to comply with these rules varies. Initial education costs are set forth by the providers of the 7-hour course and are not within the Boards control. Initial certification [licensure] costs are set forth in ORC 4715.53(A). If the dental assistant radiographer fails to renew their certificate or fails to complete the required minimum continuing education in order to renew the certificate [license], the Board may choose to implement disciplinary action against the certificate [license] holder. Depending on the extent of the violation, the adverse impact to the certificate holder due to the disciplinary action could be as little as no cost with only a time commitment to as much as obtaining continuing ethics education in addition to complying with the original continuing education requirements. Additionally, there may be time involved to complete additional continuing education. The adverse impact to the employer dentist [small business owner] would be in reduced staff capabilities or monetary in nature if the employer dentist chose to assist the dental assistant radiographer in the cost to comply.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

In the interest of public safety and to prevent the hazards of improper use of medical radiation, Congress determined the need for standards for occupational groups utilizing ionizing and non-ionizing radiation (i.e. radiographer, dental hygienist, dental assistant, nuclear medicine technologist, and radiation therapy technologist). Subsequently, ORC 4715.53 was implemented in 1995 setting forth the certification [licensure] requirements for dental assistant radiographers in Ohio.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

This rule does not provide any exemption or alternative means of compliance for small businesses. All licensed dental personnel under ORC 4715 must have a license or certificate to provide services in Ohio. The law does not differentiate on the size of the business and therefore, this rule applies to all licensed, certified, or registered providers.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

ORC 4715 does not allow for the implementation of fines or penalties. Therefore, this is not applicable.

**18. What resources are available to assist small businesses with compliance of the regulation?**

Resources available to assist small businesses with compliance are the Boards law, rules and policies posted online at the Boards website. Additionally, Board staff respond verbally and in writing to queries from interested parties.