

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Dental Board

Regulation/Package Title: 2015 -Chapter 5

Rule Number(s) 4715-5-01.1, 4715-5-02, 4715-5-03, and 4715-5-08

Date: December 7, 2015

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 Rescinded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.

No Change

- **4715-5-03 Examination for dentists.:** This rule sets forth the minimum standard for examination scores for dental licensure examinations.

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Amended

- **4715-5-01.1 Requirements for initial licensure for dentists.:** This rule sets forth the minimum requirements to become licensed as a dentist in Ohio. Amendments to the rule were made for gender neutralization and due to the enactment of H.B.463.
 - **4715-5-02 Written work authorization.:** This rule sets forth specific guidelines for written work authorizations, including retention of the authorization by the prescribing dentist and any subcontractors, description of materials and work, and record retention. The amendment to the rule is to clarify that the original work authorization must include the original signature of the prescribing dentist.
 - **4715-5-08 Denture identification.:** This rule sets forth the identification requirements for removable prosthesis. Amendments to the rule further define “removeable prosthesis”.
2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

4715.03 Board organization - examinations.

4715.11 Licensing procedure.
 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 do not implement a federal requirement nor are they being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.
 4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This question is not applicable since the proposed amendments do not implement 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)?**

O.R.C. 4715.03(F) requires the Ohio State Dental Board to regulate eligibility criteria, application procedures, and safety standards for the practice of dentistry in Ohio. These regulations allow the Board to carry out its statutory mission to ensure protection of the public.
 6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The rule is not a quantitative regulation, nor does it impose a measureable (if any) quantitative burden on the licensee. The success of the regulation will be measured by the licensees understanding or legal objections to 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 eleven (11) 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 to discuss these rules in April, September, and December 2013; July, September, and December 2014; and March, May, June, July, September, and October 2015.

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 and vote by the full Board concluded that these rules are working as intended by the legislature and that the only amendments necessary were to correct for gender neutralization, incorporate requirements due to the enactment of H.B.463, to further clarify the prescribing dentists signature [4715-5-02], and to define removable prosthesis [4715-5-08].

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?

Scientific data was not used to develop the rule as the rule is 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 O.R.C. 4715.03 and 4715.11.

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 a need for the rule to be performance-based.

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

The five-year rule review process is conducted with the focus on eliminating obsolete, unnecessary, and redundant rules and avoiding duplication. In addition, meetings with interested parties help to ensure that these rules do not duplicate any existing Ohio regulation.

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 information to applicants upon request and for clarification purposes. 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;

Any dentist wishing to apply for a license to practice in Ohio and dental laboratories.

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

Individuals are required to have a license to practice dentistry. Once licensed, violations of Ohio Administrative Code 4715-5, Dentists, may result in disciplinary sanctions, which may include additional remedial or continuing education, practice restrictions, suspension, or revocation of licensure.

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 of licensure and application is established by statute. The adverse impact of the rules 4715-5-02 and 4715-5-08 would be as the result of any disciplinary sanctions taken against the licensee due to substandard care. More specifically, disciplinary sanctions can result in: lost time/earnings, licensure suspension, cost/lost time for educational remediation, or loss of practice due to licensure revocation.

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

O.R.C. 4715.03 requires the Ohio State Dental Board to regulate eligibility criteria, application procedures, and safe practice standards by a dentist. These rules help to fulfill the Board's statutory mission of protection of the public.

Regulatory Flexibility

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

These rules do not provide any exemptions or alternative means of compliance for small businesses. The law does not differentiate on the size of the business and therefore, applies to all licensed 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?

O.R.C. 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/stakeholders with compliance are the Board's law, rules, and policies, which are available online at the Boards website. Additionally, Board staff regularly respond to inquiries from interested parties.

DENTISTS

4715-5-01.1 REQUIREMENTS FOR INITIAL LICENSURE FOR DENTISTS.

- (A) Applicants for licensure to practice dentistry as provided in sections 4715.10, 4715.11 and 4715.12 of the Revised Code, shall furnish satisfactory proof of the following on a form prescribed and provided by the state dental board:
- (1) ~~He is~~Be at least eighteen years of age; and
 - (2) ~~He is~~Be of good moral character; and
 - (3) ~~He is~~Be a graduate of an accredited dental college, or a graduate of an unaccredited dental college located outside the United States and meets the requirements set forth in rule 4715-18-01 of the Administrative Code; and
 - (4) ~~He has~~Has successfully passed all parts of the examination given by the joint commission on national dental examinations; and
 - (5) ~~He provides~~Provides evidence of successfully passing all components based on a conjunctive scoring method of one of the following regional board examinations: the North east regional board of dental examiners, inc. (NERB), the Central regional dental testing service, inc. (CRDTS), the Southern regional testing agency, inc. (SRTA), or the Western regional examining board (WREB); or
 - (6) ~~He possesses~~Possesses a license in good standing from another state for five years and has actively engaged in the legal and reputable practice of dentistry in another state or in the armed forces of the United States, the United States public health service, or the United States department of veterans' affairs for five years immediately preceding application.
- (6)(7) Have successfully completed a dental residency program accredited or approved by the commission on dental accreditation and administered by an accredited dental college or hospital, as attested to by the director of the program on a form prescribed and provided by the board.
- (B) Each applicant shall successfully pass a written jurisprudence examination approved by the state dental board on the statute and rules governing the practice of dentistry in the state of Ohio.

4715-5-02 WRITTEN WORK AUTHORIZATION.

- (A) The Ohio state dental board hereby prescribes that the written work authorization required in division (B) of section 4715.09 of the Revised Code shall be on printed forms for both original and copy and shall contain the following:
- (1) The name and address of the entity or person to whom the written work authorization is directed, hereinafter referred to as "primary contractor".
 - (2) The patient's name and/or identifying number. In the event such identifying number is used, the name of the patient shall be written upon a copy of such written work authorization retained by the dentist.
 - (3) A description of the work to be done, with diagrams if applicable.
 - (4) A description of the type of the materials to be used.
 - (5) The actual date on which the authorization was written.
 - (6) The original signature in ink by the dentist issuing the said written work authorization, his state dental license number and his office address.

- (7) A section to be completed by the primary contractor and returned to the issuing dentist that shall disclose all of the following information and certify that the information is accurate by including the signature of a responsible party of the primary contractor:
- (a) A list of all materials in the composition of the final appliance;
 - (b) The location where the appliance was fabricated, including the name, address, phone number and FDA registration number, if applicable, of the person or entity performing the work;
 - (c) The location, including name, address, phone number and FDA registration number, if applicable, of any sub-contractors utilized to perform some or all of the services relative to the fabrication of the appliance;
 - (d) A description of all disinfection methods used in the fabrication of the appliance.
- (C) Upon request, the dentist shall provide each patient or authorized patient representative with a duplicate copy of the section of the form described in paragraph (A)(7) of this rule.
- (D) The dentist shall retain a copy of the written work authorization for two years from its date as a part of the patient record.
- (E) The primary contractor shall retain the original work authorization for two years from its date. Copies of work authorization forms shall be open for inspection by the Ohio state dental board and its investigators.
- (F) If the primary contractor receiving a written work authorization from a licensed dentist engages another unlicensed person, partnership, association, or corporation (herein referred to as "sub-contractor") to perform some of the services relative to such work authorization, as provided for in division (C) of section 4715.09 of the Revised Code, he or it shall notify the issuing dentist in advance of the fabrication of the appliance of the name and location of the subcontractor and shall furnish a written sub-work authorization with respect thereto on forms prescribed by the state dental board.
- The sub-contractor shall retain the sub-work authorization and the primary contractor shall retain a duplicate copy, attached to the work authorization received from the licensed dentist, for inspection by the state dental board or its duly authorized agents, for a period of two years. Copies of work authorization forms shall be open for inspection by the Ohio state dental board and its investigators.
- (G) The foregoing does not prohibit the inclusion of additional information on the written work authorization when the same is necessary or desirable.
- (H) "Unlicensed person, partnership, association or corporation" as used in this rule, includes, but is not limited to, dental laboratory or dental laboratory technician.
- (I) "Appliance" as used in this rule, includes, but is not limited to, any denture, plate, bridge, splint, crown, veneer, or orthodontic or prosthetic dental device.

4715-5-03 EXAMINATION FOR DENTISTS.

- (A) In order to fulfill the requirements of paragraph (D)(1) of Ohio Revised Code 4715.10 and paragraph (A)(5) of agency level rule 4715-5- 01.1, each applicant for licensure to practice dentistry in the state of Ohio must provide evidence of a passing score on each component of the regional examination as established by the agency for the component.
- (B) In cases wherein the regional examining agency has not established passing scores for each component of the examination the board requires that each component must be passed by a minimum seventy-five percent.

4715-5-08 DENTURE REMOVABLE PROSTHESIS IDENTIFICATION.

Each licensed dentist shall ensure that every removable prosthesis is identified.

(A) After the effective date of this rule, every removable prosthesis fabricated by a dentist, or fabricated pursuant to his or her work authorization form, shall be marked with the name and/or social security number of the patient for whom the denture is intended. The markings shall be made prior to final seating and shall be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist, entity or person fabricating the prosthesis.

(B) Any removable prosthesis which has not been marked in accordance with paragraph (A) of this rule at the time of fabrication, shall be so marked at the time of any subsequent rebasing or duplication.

(B)(C) For the purposes of this rule removable prosthesis means a manufactured device that replaces one or more teeth and may be removed by the patient.