

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Dental Board

Regulation/Package Title: 2015 – Chapter 40

Rule Number(s), 4715-40-01

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 Rescinded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.

Amended

4715-40-01 Quality intervention program; Definitions.: This rule sets forth the definition of terms for the Quality Intervention Program. Amendments to the rule were made to correct statutory reference.

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

O.R.C. 4715.031 Development and implementation of quality intervention program.

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- 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.

These regulations do not implement a federal requirement nor were they implemented 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 non-applicable since the regulations 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)?**

The General Assembly determined that the profession of dentistry required regulation and established a Board to license individuals and enforce the law and rules governing the practice of dentistry in Ohio. These regulations allow the Board to carry out its statutory mission to ensure protection of the public by recognizing and remediating those dentists with practice deficiencies.

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

Success will be measured by the completion of participation/remediation of the licensee who participated in the Board's Quality Intervention Program. Each successful candidate is provided a survey upon completion of the program in order to provide feedback for review by the Board.

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 with the opportunity to discuss these rules in April, September, and December 2013.

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 decision that the QUIP program was working as intended by the legislature and that the only change needed at this time was in statutory reference.

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?

The Board researched other similar programs offered by the State Medical Board of Ohio and the Ohio Board of Nursing and formulated these rules based on that research.

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 QUIP program worked as intended by legislature.

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.*

By its nature, the QUIP is performance based regulation. Successful remediation of the individual licensees practice deficiency provides for the performance base.

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 a 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 QUIP program has been implemented since 2001 and the Board continues to work to improve efficiency and effectiveness.

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 4715-40 impacts individual licensees with recognized practice deficiencies.

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

Licensees participating in the QUIP program are required to pay the cost of the remediation education. Cost of remediation education ranges from \$150/hour at The Ohio State University College of Dentistry to \$200/hour at Case Western Reserve University College of Dental Medicine. Additionally, licensees entered into remediation education may incur costs for educational materials if applicable.

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.

Typically the cost of the remediation education is \$150-\$200/hour depending on the licensee’s choice of remediation education provider.

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

The Board is solely responsible for ensuring that only competent and safe practitioners are permitted to practice dentistry in Ohio. Therefore, remediation education of current dental providers/licensees with identified practice deficiencies ensures protection of the public, as well as, serving the healthcare needs of Ohioans. Further, this program is voluntary.

Regulatory Flexibility

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

As these rules are an alternative to discipline for those licensees with identified practice deficiencies, these rules do not provide any exemptions 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, 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 online at the Boards website, both a Board and staff member dedicated to work with licensees who elect to participate in the QUIP program.

QUALITY INTERVENTION PROGRAM (QUIP)

4715-40-01 QUALITY INTERVENTION PROGRAM; DEFINITIONS.

As used in this chapter:

- (A) "Licensee" or "License holder" is an individual holding a current valid license issued by the board to practice as a dentist, dental hygienist, or dental assistant radiographer in accordance with sections 4715.09 to ~~4715.58~~4715.66 of the Revised Code.
- (B) "Educational provider" is one designated by the board to provide evaluation, education, and/or remediation pursuant to section 4715.031 of the Revised Code and is one of the following:
 - (1) An entity or organization that has been approved by the Ohio state dental board in accordance with rules 4715-8-02 and 4715-8-03 of the Administrative Code; and/or
 - (2) An educational institution or program that is both acceptable to the board and accredited by an accrediting agency recognized by the United States office of education; and/or
 - (3) A hospital accredited by the joint commission on accreditation of healthcare organizations (JCAHO); and/or
 - (4) A college or university with an accredited school of dentistry or dental hygiene program and/or community college with approved dental hygiene programs, when the educational program is held under the auspices of the school of dentistry or dental hygiene, or dental hygiene program; and/or
 - (5) A state board or agency that regulates health care providers when education and/or remediation approved or accepted by the board or agency contains content that has been prescribed by the Ohio state dental board for a participant in the quality intervention program.
- (C) "Participant" is a licensee undergoing education and/or remediation in the quality intervention program.
- (D) "Participatory agreement" is a confidential, voluntary, written contract executed by a licensee and the quality intervention program (QUIP) which includes, but is not limited to, the following:
 - (1) Stipulation of the licensee's identified practice deficiency; and
 - (2) Consent of the licensee to participate in the education and/or remediation process required by the board; and
 - (3) Consent by the licensee that allows the release to QUIP of all information pertaining to the licensee's education and/or remediation process; and
 - (4) A provision whereby the failure to complete the program shall result in commencement of disciplinary proceedings against the licensee by the board under section 4715.03 of the Revised Code.
- (E) "Quality intervention program" or "QUIP" is the program authorized by section 4715.031 of the Revised Code that allows the board to toll disciplinary action against a licensee who has a practice deficiency that has been identified by the board through an initial investigation conducted under division (D) of section 4715.03 of the Revised Code.
- (F) "Practice deficiency" is a practice activity that fails to conform to the accepted standards for the profession.
- (G) "Remediation" is a prescribed educational intervention that is designed to restore an identified practice deficiency of a licensee to conformity with the accepted standards of the profession. Remediation includes, but is not limited to, successful demonstration by the licensee that the learned knowledge and skills have been incorporated into the licensee's practice.