

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Dental Board

Regulation/Package Title: 2015 – Chapter 8

Rule Number(s) 4715-8-02, 4715-8-03, and 4715-8-04

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 Rescinded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

- **4715-8-02 Sponsors of continuing education.:** This rule sets forth the definition of types of sponsors of continuing education and sets forth the minimum eligibility criteria and requirements for sponsors of continuing education. Amendments to the rule correct statute references.
- **4715-8-03 Standards for approval of biennial sponsors.:** This rule sets forth the application fees, the Board's minimum guidelines for application approval, and recordkeeping requirements for continuing education sponsors. Amendments to the rule correct statute and rule references.

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

CSIOhio@governor.ohio.gov

- **4715-8-04 Continuing education requirements for renewal or reinstatement.:** This rule sets forth the minimum standards for approval of continuing education sponsors. Amendments to the rule correct statute references and to correct numbering errors.

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

O.R.C. 4715.03 Board organization – examinations.

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 not 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 through ensuring continued competency by requiring that licensees remain current in the dental profession through continuing dental education.

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.

8. 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

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

CSIOhio@governor.ohio.gov

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.

9. 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 conclusion that the advertising rules were working as intended and that no changes were needed at this time.

10. 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 rules as these rules are not data driven.

11. 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 rules worked as intended by legislature.

12. 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 rules in this package to be performance-based.

13. 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.

14. 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.

Continuing education for licensees has been implemented since 1992 and the Board continues to work to improve efficiency, effectiveness and awareness.

Adverse Impact to Business

15. 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;**

OAC Chapter 4715-8 impacts individual licensees by mandating that a minimum number of hours in continuing education are required for licensure/certification renewal in order to maintain continued competency by all dental personnel in the dental practice. Additionally, these rules ensure that continuing education sponsors must provide dentally related continuing education which has a sound scientific basis and proven efficacy to ensure public safety.

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

If a licensee is not in compliance with the continuing education law and rules and it comes to the attention of the Board, the licensee may, if the continuing education violation is not corrected, be subject to discipline by the Board. Additionally, if the continuing education sponsor is not in compliance with the law and these rules, the Board may rescind sponsor status resulting in the inability to provide acceptable continuing education to dental licensees.

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 licensee to comply varies depending on the extent of the violation. It 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 ~ as well as the time involved to complete additional continuing education.

The cost to the sponsor of continuing education is the fee for application and the time required to fill out the application. Possible adverse impact to the sponsor would apply if the sponsor is found in violation of the dental law and rules and must surrender the application fee for the biennium during which they held approved sponsorship. Additionally, they would lose revenue from loss of the ability to provide continuing education as an approved sponsor of the Board.

16. **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, continuing education of current dental

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

CSIOhio@governor.ohio.gov

providers/licensees helps to ensure protection of the public. Additionally, regulation of the sponsors ensures that the continuing education experiences offered to licensees and certificate holders are dentally related and have a sound scientific basis and proven efficacy in the treatment of patients.

Regulatory Flexibility

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

These rules do 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, these rules apply to all licensed, certified, or registered dental personnel and sponsors of continuing education.

18. 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.

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

Resources available to assist small businesses/stakeholders with compliance are online access to the Ohio Revised and Administrative Codes. Additionally, Board staff regularly respond to inquiries from interested parties.

CONTINUING EDUCATION

4715-8-02 SPONSORS OF CONTINUING EDUCATION.

The sponsor is the individual, organization or educational institution or other entity conducting the professional education course.

Sponsors shall be as follows:

- (A) Permanent sponsor – An organization, school or other dental-related organization as set forth in sections 4715.141(B)(1) and (B)(2) and ~~4715.25(A)(1) to (A)(4)~~4715.25(C)(1) to (C)(4) of the Revised Code whose continuing education courses are approved by the state dental board. These sponsors are:
- (1) "American Dental Association," and constituent and component dental associations and societies affiliated with the "American Dental Association."
 - (2) "National Dental Association," and constituent and component dental associations and societies affiliated with the "National Dental Association."
 - (3) "American Dental Hygienists Association," and its recognized constituents, components and affiliated societies.
 - (4) "National Dental Hygienists' Association" and constituent and component dental hygienists' associations and societies affiliated with the "National Dental Hygienists' Association."
 - (5) National, state, district or local dental specialty organizations affiliated with the "American Dental Association."
 - (6) Academy of General Dentistry" and its constituent and component organizations.
 - (7) Colleges and universities with accredited schools of dentistry or dental hygiene and community colleges with approved dental hygiene programs, when the continuing professional education program is held under the auspices of the school of dentistry or dental hygiene, or the dental hygiene program.
 - (8) Colleges and universities accredited by an accrediting agency approved by the United States office of education. Hospitals accredited by the "Joint Commission on Accreditation of Healthcare Organizations (JCAHO)."
 - (9) Other organizations, schools or other dental-related organizations that by board action are listed as permanent sponsors.
- (B) Biennial sponsor – individuals, trade corporations, institutions, study clubs, dental research clinics, and nondental-related entities or groups that have applied and been approved by the board as sponsors for the current biennium. Sponsor approval shall be based upon the criteria identified in rule 4715-8-03 of the Administrative Code. Approval as a biennial sponsor automatically expires at the end of the biennium, and approval must be obtained for each successive biennial licensing period.
- (C) The board retains the right and authority, upon notification, to audit, monitor. Or request evidence demonstrating adherence to Chapter 4715 of the Revised Code, for courses given by any sponsor. The board may rescind biennial sponsor status if the sponsor has disseminated any false or misleading information in connection with the continuing education program, or if the sponsor has failed to conform to sections 4715.141 and 4715.25 of the Revised Code, or rules 4715-8-01, 4715-8-02 and 4715-8-03 of the Administrative Code.
- (D) Continuing education sponsors submitting an application must meet the following eligibility criteria;

- (1) A CE sponsor must ensure that all courses that are to be considered for Ohio licensure renewal have a sound scientific basis, proven efficacy to ensure public safety and must comply with the guidelines set forth in sections 4715.141 and 4715.25 of the Revised Code and all rules of the board.
 - (2) Sponsorship approval extends only to the CE sponsor; approval does not necessarily extend to individual courses, programs, lecturer(s) and instructor(s).
 - (3) A CE sponsor must document that it is targeting its activities to a great extent to dentists/dental hygienists/dental assistant radiographers by providing dental oriented topics within the scope of the profession.
- (E) All biennial sponsors of continuing education shall ensure that all publicity criteria abide by the following:
- (1) Publication must be informative and not misleading. It must include at a minimum the following:
 - (a) The name of the sponsor, as well as any organization or agencies providing financial support, must be clearly stated;
 - (b) Course title;
 - (c) Description of course content;
 - (d) The educational objectives;
 - (e) A description of teaching methods used;
 - (f) Costs and contact person;
 - (g) Course instructor(s) and their qualifications;
 - (h) Location, date and time;
 - (i) Specifics as to the sponsors board sponsorship status; and
 - (j) Number of credit hours each course provides towards fulfillment of CE obligation.
 - (2) Sponsors shall ensure that providers must avoid misleading statements regarding the nature of the activity or the benefits to be derived from participation.
- (F) The requirements outlined in paragraphs (E)(1)(a) to (E)(1)(j) of this rule do not apply to board approved study clubs.

4715-8-03 STANDARDS FOR APPROVAL OF BIENNIAL SPONSORS.

In order to obtain approval as a biennial sponsor, a sponsor shall:

- (A) Make application by completion of an application form provided by the board, including a fee of one hundred thirty-five dollars for the biennium, to be prorated at a rate of thirty-seven dollars and seventy-five cents per half year, based on the time the application is submitted.
- (B) Submit evidence to the board demonstrating adherence to the following standards:
 - (1) Participant objectives shall state the expected outcomes for the participant and be used as a basis for determining content and learning experiences. Explicit written educational objectives identifying the expected learner outcomes must be developed for each activity. The program planner must be ultimately responsible for ensuring that appropriate objectives are developed for each activity. The educational objectives may however, be prepared by the instructor, course director or program planner.
 - (2) Curriculum offerings shall reflect appropriate didactic and clinical training for the subject matter. The teaching methods shall be appropriate to achieve the stated objective of the course and the time allotted is sufficient for the participants

- to meet the stated objectives. When a course includes clinical dental hygiene or dental assistant radiographer practice on patients, an Ohio licensed dentist shall provide supervision.
- (3) Continuing education sponsors must ensure that providers/instructors chosen to teach courses are qualified by education and/or experience to provide instruction in the relevant subject matter.
 - (4) Facilities and equipment shall be specifically designed for instruction in each subject offered.
 - (5) Award partial credit for participants failing to complete the total number of hours for which a specific offering planned, if appropriate, in view of the subject matter and the instruction method of the course.
- (C) Designate a person who assumes responsibility for each continuing education offering. The contact person shall:
- (1) Completely file all information necessary for provider approval.
 - (2) Ensure that continuing education offerings that are to receive hours of credit acceptable towards Ohio licensure renewal comply with sections 4715.141 and 4715.25 of the Revised Code, and all rules of the board.
 - (3) Provide written certification that the course has been satisfactorily completed only to those attendees who have completed the course. The certification shall contain the sponsor's name, title of course, instructor(s), date of course, location, and number of hours of credit acceptable towards Ohio licensure renewal and category of credit according to rule 4715-8-01(A) to ~~(H)~~(G) of the Administrative Code. Validation by the sponsor of a document furnished by the attendee shall satisfy this requirement.
 - (4) Notify the board of any significant changes relative to the maintenance of standards as set forth in this chapter.
- (D) Maintain records of individual course offerings. Records shall include:
- (1) Name of CE sponsor, instructor(s) and their qualifications;
 - (2) The date(s), location and number of continuing education hours of acceptable towards Ohio licensure renewal;
 - (3) The title of the offering and/or specific subjects;
 - (4) Category of credit hours acceptable towards Ohio licensure renewal as set forth in rule 4715-8-01(A) to ~~(H)~~(G) of the Administrative Code.
 - (5) Sponsors must maintain records of the individual participants at each educational offering, including their names and addresses, for a period of at least four years.

4715-8-04 CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OR REINSTATEMENT.

- (A) Each applicant for biennial license registration or license reinstatement shall certify that the applicant has completed the requisite hours of continuing dental education (hereinafter "CE") since the start of the registration period. This certification shall be evidence of completion of the CE requirement as set forth in sections 4715.141, 4715.25, and ~~4715.584~~4715.53 of the Revised Code, provided that:
- (1) The board may annually select applications for biennial license registration or license reinstatement for verification that all CE requirements have been met. Licensees whose applications are selected shall submit additional documentation of compliance with CE requirements as the board may require, within thirty days.
 - (2) Applicants shall keep detailed records of CE hours taken. Records of all CE undertaken shall be retained by the applicant for the period of at least four years after the completion of the CE activity, and shall be kept available for agents of the board for review. At a minimum, the following information must be retained:

- (a) Description of the CE activity;
 - (b) The location of the CE activity;
 - (c) The dates of attendance
 - (d) The hours of each CE activity; and
 - (e) A certificate or letter of completion issued by the presenter of the CE activity, if available, or any other available documentation of the completion of the CE activity, acceptable to the board. Which shall include at a minimum the following:
 - (i) Name(s) of the sponsor and instructor(s);
 - (ii) Course title; and
 - (iii) Number of credit hours of continuing education acceptable towards Ohio licensure renewal.
 - (iv) It is the licensee's responsibility to ensure that courses taken fulfill the requirements set forth in sections 4715.141, 4715.25 and ~~4715.58~~4715.53 of the Revised Code and sections 4715-8-01 to 4715-8-04 of the Administrative Code.
- (B) Failure to maintain adequate records of CE activity rebuts the presumption established in paragraph (A) of this rule that the CE requirements have been completed.
- (C) Nothing in this rule shall limit the board's authority to investigate and take action pursuant Chapter 4715. of the Revised Code.