



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

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### Business Impact Analysis

Agency, Board, or Commission Name: Ohio State Dental Board

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

4715-9 Dental Hygienists

Rule Number(s): 4715-9-01, 4715-9-01.1, 4715-9-01.2, 4715-9-02, 4715-9-03

4715-9-04, 4715-9-05, 4715-9-06, 4715-9-06.1,

Date of Submission for CSI Review: 7/13/2021

Public Comment Period End Date: 7/27/2021

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/  rules (FYR? )

Amended/\_\_\_ rules (FYR? \_\_\_)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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### **Reason for Submission**

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a.  **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b.  **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c.  **Requires specific expenditures or the report of information as a condition of compliance.**
- d.  **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

2. **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**

- **4715-9-01 Permissible practices of a dental hygienist-** This rule sets forth the minimum permissible duties of licensed dental hygienists in Ohio.
- **4715-9-01.1 Administration of local anesthesia; education and examination requirements.** – This rule sets forth minimum training and examination requirements for the administration of local anesthesia by a licensed dental hygienist.
- **4715-9-01.2 Administration (initiate, adjust, monitor, and terminate) of nitrous oxide-oxygen (n2o2) minimal sedation; education, training and examination requirements.** – This rule sets forth the minimum education training and examination requirements for administration of nitrous oxide-oxygen by a licensed dental hygienist.

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- **4715-9-02 Dental hygiene examination limited.** – This rule sets forth the minimum examination requirements for an applicant for dental hygiene license examination
- **4715-9-03 Requirements for licensure for dental hygienists.** – This rule sets forth the minimum requirements to become licensed as a dental hygienist in Ohio.
- **4715-9-04 Dental hygiene teaching certificate.** – This rule sets forth the minimum requirements to obtain a dental hygiene teaching certificate in Ohio.
- **4715-9-05 Practice when the dentist is not physically present.** – This rule sets forth the minimum practice, course and supervision requirements for a licensed dental hygienist to practice without the dentist being present in the facility where the hygienist is practicing.
- **4715-9-06 Dental hygienist participating in the oral health access supervision program (OHASP)** – This rule sets forth the guidelines for the dental hygienist practicing under the Oral Health Access Supervision Permit.
- **4715-9-06.1 Course Requirement for the practice of dental hygiene under oral health access supervision program (OHASP)-** This rule sets forth minimum course curriculum and hours required to be completed for dental hygienists to be granted a permit to practice under OHASP.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

**Authorizes by:**

O.R.C 4715.03 Board Organization- Examinations.

O.R.C 4715.21 License application.

O.R.C 4715.22 Supervision of licensed dentist.

O.R.C 4715.23 Practice limitations

O.R.C 4715.231 Administration of local anesthesia by a dental hygienist

O.R.C 4715.27 Reciprocity

O.R.C 4715.36 Definitions

O.R.C 4715.372 Adoption of rules; course standards

O.R.C 4715.39 Permitted duties

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**Amplifies:**

O.R.C 4715.20 Conditions to practice as a dental hygienist

O.R.C 4715.21 License application

O.R.C 4715.22 Supervision licensed dentist.

O.R.C 4715.23 Practice limitations

O.R.C 4715.231 Administration of local anesthesia by a dental hygienist

O.R.C 4715.27 Reciprocity

O.R.C 4715.363 Application for permit; dental hygienist

O.R.C 4715.365 Authority under permit

O.R.C 4715.366 Compliance with protocols; Appointment with authorizing dentist

O.R.C 4715.372 Adoption of rules; Course standards

O.R.C 4715.39 Permitted duties

- 4. 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.

- 5. 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. The regulations do not implement a federal requirement.

- 6. 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 setting requirements for education, examination and practice standards for dental hygienists.

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

These rules are not quantitative regulation, nor do they impose a measurable (if any) quantitative burden on the licensee. The success of the regulations will be measured by the licensees understanding or legal objections to the rules.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

Not applicable

**Development of the Regulation**

**9. 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 and the Board's Law and Rules Committee holds open meetings throughout the rule review year. 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 Board met to accept this no change filing on June 9, 2021.

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

Discussion by the Board resulted in the conclusion that there were no changes needed to this rule.

**11. 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.

**12. 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.

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- 13. 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.

- 14. 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.

- 15. 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 work with Stake holders and licensees to make sure the implementation, or continued implementation process of these rules is smooth and consistent between all parties involved.

### **Adverse Impact to Business**

- 16. 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; and**

Any dental hygienist applying for a license or an oral health access supervision permit to practice as a dental hygienist in Ohio.

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

Individuals are required to have a license to practice dental hygiene violations of 4715-9 may result in disciplinary actions which include continuing education, practice restrictions, license or permit suspension or revocation.

- 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*

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*“representative business.” Please include the source for your information/estimated impact.*

The cost of licensure for dental hygiene is \$184 in even years and \$120 in odd years. The renewal fee is \$144. The cost of the Oral Health Access Supervision Permit is \$25. The renewal fee is also \$25. Regarding disciplinary action, the cost to the licensee to comply varies based on the extent of the violation. It could be as little as no cost with only a time commitment to attorney’s fees to challenge alleged violations or obtaining continuing education hours in a mandated subject.

**17. 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. O.R.C 4715.21,22,23,231,27,36,371, and 39 require the Ohio State Dental Board to regulate education, examination, training, eligibility and application criteria for licensure and permits of dental hygienists.

**Regulatory Flexibility**

**18. 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.

**19. 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.

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

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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.

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