

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Dental Board

Regulation/Package Title: 2018- Chapter 40

Rule Number(s): O.A.C. 4715-40-02, 4715-40-03, 4715-40-04, 4715-40-05, 4715-40-06,
4715-40-07, 4715-40-08

Date: 9/26/2018

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Rescinded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.

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No Change

- **4715-40-02 Process and criteria to use when identifying an individual's practice deficiency.** This rule sets forth specific criteria to identify practice deficiency's among dentists.
- **4715-40-03 Eligibility requirements for participation in the quality intervention program (QUIP).** This rule sets forth specific requirements for a dentist to participate in the quality intervention program.
- **4715-40-05 Grounds for termination from the quality intervention program (QUIP).** This rule sets forth the grounds for a dentist to be terminated from the quality intervention program.
- **4715-40-08 Confidentiality of records for the quality intervention program (QUIP).** This rule provides confidentiality to dentists participating in the quality intervention program.

Amended

- **4715-40-04 Provisions of the participatory agreement for the quality intervention program (QUIP).** This rule sets forth the specific requirements that the dentist must complete while participating in the quality intervention program. The amendment to the rule changed dental assistant radiographer to dental x-ray machine operator and clarifies remediation.
- **4715-40-06 Requirements for educational provider(s) offering remediation for the quality intervention program (QUIP)** This rule sets forth the specific requirements that educational providers must meet while offering remediation for the quality intervention program. The amendment to the rule fixes a spelling error.
- **4715-40-07 Terms and conditions a participant must meet to successfully complete the quality intervention program.** This rule sets forth the specific terms and conditions that must be met by the dentist for successful completion of the quality intervention program. The amendment to this rule changes dental assistant radiographer to dental x-ray machine operator.

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

4715.031- Development an implementation of quality intervention program

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.

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The proposed amendments 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 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)?

ORC 4715.03 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 mission to protect 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 measurable (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 holds open meetings throughout the rule review year. The Committee is comprised of seven (7) members including representatives from 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 comprised of parties interested in all Board proceedings. The Board met to accept these amendments on September 12, 2018

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

The Board received input from the Board's Law and Rule committee and the Ohio Dental Association and Dental Hygiene Association over a series of multiple Board meetings.

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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 rules as the 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?

The Board did not consider further alternative regulations for this rule package.

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 propose performance-based regulations in this rule package due to the necessity of setting established processes and standards to achieve its public protection mandate.

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 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. Also, the Board will work with professional licensing boards, and the Ohio Dental Association to educate and regulate licensees on Board rules.

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 Dentists who participates in the quality intervention program (QUIP).

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

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Individuals that are required to have a license meet various conditions for licensure to obtain and renew their licenses. Licenses issued by the Board are required to meet minimal standards of care. If they fail to do so the licensee is subject to possible discipline.

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.

4715-40-02 – There is no adverse impact directly associated with this rule as it instructs the Board how to operate the QUIP program and does not directly regulate any other party.

4715-40-03 – There is no adverse impact directly associated with this rule as it instructs the Board how to operate the QUIP program and does not directly regulate any other party.

4715-40-04 – The adverse impact of this rule is the time required to execute a participatory agreement with the Board for the QUIP program, which could include reading the approximately six pages long document, discussing with Board staff, and sending the agreement to the Board.

4715-40-05 – The adverse impact of this rule is the requirement that an individual who is terminated from QUIP must continue with disciplinary proceedings based on the discipline that resulted in their original referral to QUIP.

4715-40-06 – The adverse impact of this rule is that educational provider must provide an education/remediation program for the QUIP participant, which will vary in number of hours (didactic and/or clinical hours) and cost based on each individual case. The educational provider may be adversely impacted by the reporting requirements of the to QUIP regarding the participant’s progress and of any adverse occurrences, program completion verification, and reporting if they plan to terminate providing interventions.

4715-40-07 – The adverse impact of this rule is the time and cost associated with participation in the QUIP program for remediation in lieu of formal board discipline. The cost can vary based on the individual case and requirements of the educational provider.

4715-40-08 – The adverse impact of this rule is the nominal cost and time require for the Board, QUIP program participants, and education providers to maintain confidentiality of QUIP agreements and other documents.

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

ORC 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, they apply to all licensed dentists.

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 with compliance are the Board's law, rules, and policies online at the Board's website. Additionally, Board staff respond verbally and in writing to queries from interested parties.