

4715-15-02

**Representatives; appearances; communications; applicability.**

- (A) As used in Chapter ~~4715-15~~4715. of the Administrative Code, "respondent" shall be defined as the person who is requesting or has requested a hearing as provided in Chapter 119. of the Revised Code.
- (B) The respondent may represent himself or may be represented by an attorney admitted to the practice of law in Ohio. If the respondent does represent himself, he shall be deemed the representative of record for purposes of Chapter ~~4715-15~~4715. of the Administrative Code.
- (C) The respondent is not required to personally appear at any hearing unless he has been subpoenaed, to appear by a party of record. The respondent can authorize his representative to represent him in all facets of a hearing before the board unless he has been subpoenaed to appear by a party of record.
- (D) The respondent or his representative may present his position, arguments, or contentions in writing rather than personally appearing at any hearing provided the respondent has not been subpoenaed.
- (E) The representative of record for the respondent shall enter his appearance in writing.
- (F) The representative of record from the office of the attorney general shall enter his appearance in writing.
- (G) One who has entered an appearance as representative remains the representative of record unless and until a written withdrawal is filed with the state dental board.
- (H) Except as otherwise provided under Chapter 119. of the Revised Code, communications from the board or its attorney hearing examiner shall be sent to the representative of record.
- (I) The members of the dental board shall base their decisions on any matter subject to hearing only on the evidence of record. No information acquired by a member of the dental board in any way other than by review of the evidence of record shall be considered by such member in that member's decision on a matter subject to hearing. The receipt of information about a matter subject to hearing outside the evidence of record shall not disqualify the member from participating in the decision on that matter unless the member excuses himself or herself from participation in the decision on the ground that he or she cannot restrict his or her decision on the matter only to the evidence of record.
- (J) Except as otherwise provided under this chapter or by statute, no attorney hearing

examiner or member of the state dental board shall initiate or consider ex parte communications concerning a pending or impending adjudicatory proceeding. Nothing contained herein, however, shall preclude the attorney hearing examiner from nonsubstantative ex parte communications on procedural matters and matters affecting the efficient conduct of adjudicatory hearings.

- (K) The attorney hearing examiner and members of the state dental board shall disclose on the record the source and substance of any ex parte or attempted ex parte communications. That disclosure shall be made at the earliest possible opportunity, but at least prior to deliberation on a pending or impending adjudicatory proceeding.
- (L) Except as otherwise provided under this chapter or by statute, a rule promulgated under this chapter shall apply only to those administrative proceedings for which the notice of opportunity for hearing was mailed to respondent, or his representative, on or after the effective date of the particular rule.
- (M) Any provision of the rules in this chapter which references the attorney hearing examiner shall apply to the board in those instances in which the administrative hearing is conducted before the board, rather than an attorney hearing officer, unless such rule by its nature is clearly inapplicable.
- (N) If any provision of the rules in this chapter is held or if the application of any provision of the rules in this chapter to any person or circumstance is held invalid, the invalidity does not affect any other provision of the rules in this chapter, or the application of any other provision of the rules in this chapter, that can be given effect without the invalid provision or application, and, to this end, the provisions of the rules in this chapter are hereby declared severable.

Effective: 09/12/2016

Five Year Review (FYR) Dates: 06/24/2016 and 08/01/2021

CERTIFIED ELECTRONICALLY

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Certification

08/31/2016

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Date

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