

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio State Dental Board

Regulation/Package Title: 2015 – Chapter 10

Rule Number(s) 4715-10-01, 4715-10-02, 4715-10-02.1, 4715-10-03, 4715-10-04, and 4715-10-04.1

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☐ Rescinded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.

No Change

- **4715-10-01 Application for oral health access supervision permit; Dentist.**

This rule sets forth the minimum application requirements for a dentist to receive an Oral Health Access Supervision Permit (OHASP).

- **4715-10-02 Expiration of oral health access supervision permit; Renewal.** This rule sets forth the minimum reporting and renewal requirements for a licensed dentist to maintain an Oral Health Access Supervision Permit (OHASP).

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- **4715-10-02.1 Suspension or revocation of permit: Dentist.:** This rule sets forth the minimum guidelines for suspension or revocation of the Oral Health Access Supervision Permit (OHASP) issued to a dentist.
- **4715-10-04 Expiration of permit to practice under oral health access supervision program; renewal.:** This rule sets forth the minimum reporting and renewal requirements for a licensed dental hygienist to maintain an Oral Health Access Supervision Permit (OHASP).
- **4715-10-04.1 Suspension or revocation of permit: Dental hygienist.:** This rule sets forth the minimum guidelines for suspension or revocation of the Oral Health Access Supervision Permit (OHASP) issued to a dental hygienist.

Amended

4715-10-03 Application for oral health access supervision program permit; Dental hygienist.: This rule sets forth the minimum practice, courses, and continuing education requirements needed to obtain a dental hygiene oral health access supervision program permit in Ohio. Amendments to the rule were made due to the enactment of H.B.463.

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

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

O.R.C. 4715.362 Application for permit; Dentist.

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

O.R.C. 4715.369 Expiration of oral health access supervision permit; Renewal.

O.R.C. 4715.37 Expiration of permit to practice under dentist's supervision; Renewal.

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

O.R.C. 4715.374 Suspension or revocation of permit.

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 and dental hygiene in Ohio. These regulations allow the Board to carry out its statutory mission of ensuring public protection by setting forth minimum education, examination, and practice standards.

- 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.

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 to discuss these rules in March, May, June, July, September, and October 2015.

- 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 and by the full Board resulted in the conclusion that these rules are working as intended by the legislature and that the only amendments were due to the enactment of H.B.463.

- 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 this rule as the rule is not data driven.

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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 rule works 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.*

The Board did not see an application for the rule in this package to be performance-based.

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 Board will continue to use its website and social media links to educate and update licensees on its rules. Board employees provide informational presentations to stakeholder organizations and groups of dental personnel in an effort to keep the dental profession apprised of current regulations. Stakeholder organizations also ensure that rules, particularly amended rules are provided to their members through communications and CE opportunities. Staff training is conducted for rule changes to ensure that regulations are applied consistently.

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 dental hygienist wishing to apply for a permit to practice under the supervision of a dentist within the Oral Health Access Supervision Program in Ohio.

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

Individuals are required to have a permit to practice dental hygiene in OHASP and once issued a permit, violations of Chapter 4715-10, OAC, Oral Health Access

Supervision Program, may result in disciplinary sanctions, which may include continuing education, restriction, suspension, or revocation of the permit.

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 of the permits and required application is established by statute. The cost of adverse impact of the rules are in any time and money spent in pursuit of additional coursework and education required to obtain the permit by the dental hygienist and in disciplinary sanctions taken against the licensee due to substandard care. More specifically a result in lost time/earnings, suspension of permit, cost/lost time for educational remediation, or loss of practice due to revocation of the permits to practice could occur.

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

ORC 4715.362, 4715.363, 4715.369, 4715.37, 4715.372, and 4715.374 requires the Ohio State Dental Board to regulate education, eligibility and application criteria for issuance of permits to practice in the Oral Health Access Supervision Program in order to fulfill its 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.

This rule does not provide any exemption or alternative means of compliance for small businesses. All licensed dental personnel under ORC 4715 must have a license or permit to provide services within the Oral Health Access Supervision Program in Ohio. The law does not differentiate on the size of the business and therefore, this rule applies to all licensed and permitted 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/stakeholders with compliance are online access to the Ohio Revised and Administrative Codes. Additionally, Board staff regularly respond to inquiries from interested parties.

ORAL HEALTH ACCESS SUPERVISION PERMIT

4715-10-01 APPLICATION FOR ORAL HEALTH ACCESS SUPERVISION PERMIT: DENTIST.

- (A) No licensed dentist shall participate in the oral health access supervision program as provided in sections 4715.36 to 4715.374 of the Revised Code, unless such dentist possesses a permit issued by the Ohio state dental board.
- (B) In order to receive such a permit, the licensed dentist shall apply on a form prescribed and provided by the state dental board, submit the application fee of twenty dollars, and provide the following information:
 - (1) Dentist's name;
 - (2) Ohio license number; and
 - (3) Current practice address.
- (C) The state dental board shall issue an oral health access supervision permit to a dentist who is in good standing with the board and satisfies all the requirements of this rule.

4715-10-02 EXPIRATION OF ORAL HEALTH ACCESS SUPERVISION PERMIT; RENEWAL.

- (A) An oral health access supervision permit issued under section 4715.362 of the Revised Code expires on the thirty-first day of December of the odd-numbered year that occurs after the permit's issuance.
- (B) A dentist who desires to renew a permit shall apply, under oath, to the state dental board on a form prescribed by the board and pay a renewal fee of twenty dollars.
- (C) The board shall renew an oral health access supervision permit for a two-year period if the dentist submitted a complete application, paid the renewal fee, is in good standing with the board, and verified with the board, all of the following:
 - (1) The locations at which dental hygienists have, under the dentist's authorization, provided services during the two years prior to submission of the renewal application.
 - (2) The number of patients treated, during the two years prior to submission of the renewal application, by each dental hygienist providing dental hygiene services under the dentist's authorization.
 - (3) The number of patients reported in accordance with paragraph (C)(2) of this rule who received a clinical evaluation from a dentist following the provision of dental hygiene services by the dental hygienist.

4715-10-02.1 SUSPENSION OR REVOCATION OF PERMIT: DENTIST.

- (A) An oral health access supervision permit issued under section 4715.362 of the Revised Code may be suspended for any of the following reasons, including but not limited to:
 - (1) The dentist no longer holds a current active license status;
 - (2) The dentist fails to complete the continuing education requirements set forth in section 4715.141 of the Revised Code by the thirty-first day of December of the odd-numbered year;
 - (3) The dentist fails to provide the board with a listing of all locations where services were provided under the oral health access supervision program or where services are to be provided in the future; or

- (4) The dentist's license has been disciplined as set forth in section 4715.30 of the Revised Code or for any violation of Chapter 4715. of the Revised Code.

4715-10-03 APPLICATION FOR ORAL HEALTH ACCESS SUPERVISION PROGRAM PERMIT; DENTAL HYGIENIST.

- (A) No licensed dental hygienist shall participate in the oral health access supervision program as provided in sections 4715.36 to 4715.374 of the Revised Code, unless such dental hygienist possesses a permit issued by the Ohio state dental board.
- (B) In order to receive such a permit, the licensed dental hygienist shall apply on a form prescribed and provided by the state dental board, submit the application fee of twenty dollars, and provide the following information:
- (1) Dental hygienist's name;
 - (2) Ohio license number; and
 - (3) Other information required by the board.
- (C) The applicant shall provide evidence satisfactory to the board that the applicant has done all of the following:
- (1) Completed at least ~~two years~~one year and attained a minimum of ~~three thousand~~one thousand five hundred hours of experience in the clinical practice of dental hygiene;
 - (2) Completed at least twenty-four hours of continuing dental hygiene education during the two years immediately preceding submission of the application;
 - (3) Completed a course pertaining to the practice of dental hygiene under the oral health access supervision of a dentist that meets standards established in rule 4715-9-06.1 of the Administrative Code;
 - (4) Completed, during the two years immediately preceding application, a course pertaining to the identification and prevention of potential medical emergencies that is the same as the course described in division (C)(2) of section 4715.22 of the Revised Code.
- (D) The state dental board shall issue a permit to practice under the oral health access supervision of a dentist to a dental hygienist who is in good standing with the board and meets all of the requirements of paragraphs (B) and (C) of this rule.

4715-10-04 EXPIRATION OF PERMIT TO PRACTICE UNDER ORAL HEALTH ACCESS SUPERVISION PROGRAM; RENEWAL.

- (A) A permit to practice under the oral health access supervision of a dentist issued under section 4715.363 of the Revised Code expires on the thirty-first day of December of the odd-numbered year that occurs after the permit's issuance.
- (B) A dental hygienist who desires to renew a permit shall apply, under oath, to the state dental board on a form prescribed by the board and pay a renewal fee of twenty dollars.
- (C) The state dental board shall renew a permit for a two-year period if the dental hygienist submitted a complete application, paid the renewal fee, is in good standing with the board, and has verified with the board both of the following:
- (1) The locations at which the dental hygienist has provided dental hygiene services under a permit to practice under the oral health access supervision of a dentist.
 - (2) The number of patients that the hygienist has treated under a permit during the two years prior to submission of the renewal application.

4715-10-04.1 SUSPENSION OR REVOCATION OF PERMIT; DENTAL HYGIENIST.

- (A) A permit to practice under the oral health access supervision of a dentist may be suspended for any of the following reasons, including but not limited to:
- (1) The dental hygienist no longer holds current active license status;
 - (2) The dental hygienist fails to complete the continuing education requirements set forth in section 4715.25 of the Revised Code by the thirty-first day of December of the odd-numbered year;
 - (3) The dental hygienist has not retained current certification of basic life-support training course certified by the American heart association, American red cross, or the American safety and health institute at all times while treating patients under the oral health access supervision of a dentist;
 - (4) The dental hygienist fails to provide the board with a listing of all locations where services were provided under the oral health access supervision program or fails to report additional locations where services are to be provided prior to services being rendered; or
 - (5) The dental hygienist's license has been disciplined as set forth in section 4715.30 of the Revised Code or for any violation of Chapter 4715. of the Revised Code.