



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):

Qualified Personnel

Rule Number(s): 4715-11-01

Date of Submission for CSI Review: 10/26/2022

Public Comment Period End Date: 11/04/2022

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___X___ rules (FYR? _Y_)

Rescinded/___ rules (FYR?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.

4715-11-01 Dentist may supervise dental auxiliaries, basic qualified personnel, certified assistants, expanded function dental auxiliary. This rule sets forth guidelines for categories of dental personnel and scope of duties permitted to them under the supervision of a licensed dentist.

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.**

Authorized by:

O.R.C. 4715.03 Board organization-examinations

O.R.C. 4715.39 Permitted duties.

O.R.C. 4715.66 Rules governing expanded function dental auxiliaries.

Amplifies:

O.R.C. 4715.39 Permitted duties.

O.R.C. 4715.64 Practice as expanded function dental auxiliary.

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- 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.

This regulation does not implement a federal requirement, nor was it 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 implements a federal requirement, but 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)?**

R.C. 4715.03 requires the Board to regulate eligibility criteria, application procedures, and safety standards for the practice of dentistry in Ohio. This regulation allows the Board to carry out its statutory mission to ensure protection of the public by setting education, examination, and practice standards.

- 7. 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.

- 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 Rule Review Committee hold 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. Simultaneous with this filing, the Board will be re-posting the Rule and the revised BIA on the Board's website and will be sending these documents out via email to the Board's email list.

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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 no input was sought since the amendments were to correct reference errors and non-substantive in nature.

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?

Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

No alternative regulations were considered by the agency since it was determined that the rule provides the specific supervision/oversight required by R.C. 4715.39, R.C. 4715.64, and R.C. 4715.66.

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.

The Board will continue to use its website to educate and update licensees on its rules. The Board will work with Stakeholders and licensees to make sure the implementation, or continued implementation process of this rule is smooth and consistent between all parties involved.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The rule impacts all dental auxiliary personnel and their supervising dentists in Ohio.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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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 adverse impact includes the time and expenses necessary to obtain certification/registration, education, and training, and pass examinations to serve as dental auxiliary, as well as application and renewal fees for each type of certificate/registration.

Certification/Registration Type	Initial Fee	Renewal Fee
Dental X-ray Machine Operator	\$32	\$32
Expanded Function Dental Auxiliary	\$25	\$25
Coronal Polisher	\$19	\$0

Adverse impact may also include disciplinary action by the Board for practicing without appropriate/current certification/registration and/or violations for practicing outside the scope of practice of the certification/registration. Disciplinary sanctions imposed by the Board may include ethics training, continuing education, probation, suspension, or revocation of the certification/registration based on the extent of the violation.

Dental assistants that fail to maintain the certification/registration and continue to perform those functions permitted and/or found in violation of the scope of practice limitations of the certification/registration prescribed in the rule may be subject to disciplinary action by the Board. The disciplinary action varies based on the extent of the violation.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

There are no changes to the rules that will either reduce or increase a regulatory burden on the business community.

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

The Board believes that the adverse impact to dental auxiliary and their employing dental practices is necessary to enable the Board to carry out its statutory mission of protecting the public by ensuring only competent and safe practitioners are permitted to practice in Ohio.

Regulatory Flexibility

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

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This rule does not provide any exemption or alternative means of compliance for small businesses. All licensed dental personnel under Chapter 4715 of the Revised Code must have a license or certificate to provide services and dental care to Ohioans. The law does not differentiate on the size of the business and therefore, this rule applies to all limited license holders.

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?

Chapter 4715 of the Revised Code does not allow 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?

Resources available to assist small businesses/stakeholders with compliance are online access to Chapter 4715 of the Ohio Revised and Administrative Codes. Additionally, Board staff regularly respond to inquiries from interested parties.