



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information: Corey Schaal, JD, MPA 614/644-7674

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

Monitoring of N2O-O2 and Evidence

Rule Number(s): 4715-9-01.3 and 4715-15-26

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

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Rescinded/___ rules (FYR?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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

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.

4715-9-01.3 Monitoring nitrous oxide-oxygen (N2O-O2) minimal sedation; education or training requirements. This rule sets specific training or education guidelines for the monitoring of nitrous oxide-oxygen (N2O-O2) for dental auxiliary. Amendments to the rule are to correct a referenced paragraph in OAC Rule 4715-11-02.

4715-15-26 Evidence. This rule sets forth the specific guidelines for admissible evidence stating the Board or its attorney hearing examiner may use the Ohio rules of evidence. And, that both the Board or its attorney hearing examiner may use electronic or photographic means for the presentation of evidence.

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.**

4715.03 Board organization – examinations.

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 rules do not implement any federal requirements, 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 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 since the rules do not implement any federal requirements.

- 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)?**

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.

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

The rules are not quantitative regulations, nor do they impose measurable (if any) quantitative burdens on the licensee. The success of the regulation 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's Law and Rules Review Committee holds open meetings throughout the rule review year. The Committee is comprised of six (6) 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.

- 10. 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 Rules Review Committee and the Ohio Dental Association and Dental Hygiene Association over a series of multiple Board meetings.

- 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 rule as the rule is 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.

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

- 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 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 regulations.

- 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. 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

- 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**

All dental professionals in Ohio.

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

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.

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

The cost to the licensee to comply varies depending on the cost set forth by the sponsors of the continuing education course(s).

The cost of adverse impact of this rule are in disciplinary sanctions taken against the licensee due to substandard care. More specifically a result in lost time/earnings, suspension of licensure, cost/time for educational remediation, or loss of practice due to revocation of license. Additionally, these rules may adversely impact employees of the licensed individuals in the manner of lost wages if the affected licensee is the sole owner of a dental practice.

- 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*).**

Not applicable.

- 17. 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

- 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. The law does not differentiate on the size of the business and, therefore, the rules apply to all licensed dentists, dental hygienists, and auxiliary personnel.

- 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?**

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.